

Representative J. Stuart Adams proposes the following substitute bill:

**LOCAL LAND USE DEVELOPMENT AND
MANAGEMENT AMENDMENTS**

2005 GENERAL SESSION

STATE OF UTAH

Sponsor: Gregory S. Bell

LONG TITLE

General Description:

This bill modifies county and municipal land use, development, and management provisions.

Highlighted Provisions:

This bill:

- ▶ reorganizes and modifies county and municipal land use, development, and management provisions;
- ▶ includes the protection of access to sunlight for solar energy devices in the statement of the purposes of county and municipal land use provisions;
- ▶ modifies provisions giving counties and municipalities general authority over land use matters;
- ▶ modifies existing and adds new definitions;
- ▶ modifies notice provisions related to land use applications, the preparation of a general plan and amendments, land use ordinances, and subdivisions;
- ▶ modifies provisions related to planning commission appointment and powers;
- ▶ modifies provisions related to the preparation, adoption, content, and effect of a general plan;
- ▶ modifies provisions related to the preparation, adoption, and content of land use



- 26 ordinances;
- 27 ▶ enacts a provision relating to the imposition of exactions;
- 28 ▶ enacts provisions related to land use approval standards and the rights that vest with
- 29 approval;
- 30 ▶ modifies provisions related to the preparation, enactment, and content of
- 31 subdivision ordinances;
- 32 ▶ modifies provisions related to subdivision plats;
- 33 ▶ provides that a transfer of land by a void plat is voidable;
- 34 ▶ modifies a provision relating to exemptions from plat requirements;
- 35 ▶ authorizes counties and municipalities to designate a land use authority to decide
- 36 certain land use matters;
- 37 ▶ requires counties and municipalities to designate an appeal authority to handle
- 38 appeals of certain land use matters;
- 39 ▶ enacts provisions relating to procedures and standards applicable to appeals before
- 40 the appeal authority;
- 41 ▶ modifies provisions relating to appeals to the district court;
- 42 ▶ repeals provisions relating to a board of adjustment;
- 43 ▶ repeals provisions relating to vacating a street or alley;
- 44 ▶ repeals a provision relating to planning commission organization and procedures;
- 45 and
- 46 ▶ makes technical changes.

47 Monies Appropriated in this Bill:

48 None

49 Other Special Clauses:

50 This bill provides a coordination clause.

51 Utah Code Sections Affected:

52 AMENDS:

53 **9-4-1204**, as last amended by Chapter 65, Laws of Utah 2002

54 **10-8-2**, as last amended by Chapter 99, Laws of Utah 2004

55 **10-8-8**, as last amended by Chapter 1, Laws of Utah 1966, Second Special Session

56 **11-36-201**, as last amended by Chapter 99, Laws of Utah 2004

- 57 **11-36-202**, as last amended by Chapter 211, Laws of Utah 2000
- 58 **11-36-401**, as last amended by Chapter 211, Laws of Utah 2000
- 59 **17-34-6**, as enacted by Chapter 107, Laws of Utah 2001
- 60 **17-50-302**, as last amended by Chapters 99 and 166, Laws of Utah 2004
- 61 **17B-4-402**, as last amended by Chapter 205, Laws of Utah 2002
- 62 **57-3-101**, as last amended by Chapter 291, Laws of Utah 2002
- 63 **57-8-35**, as last amended by Chapter 265, Laws of Utah 2003
- 64 **58-56-4**, as last amended by Chapters 75 and 110, Laws of Utah 2004
- 65 **59-2-301.2**, as enacted by Chapter 134, Laws of Utah 2002
- 66 **59-2-502**, as last amended by Chapter 208, Laws of Utah 2003
- 67 **59-2-511**, as last amended by Chapter 208, Laws of Utah 2003
- 68 **62A-6-101**, as last amended by Chapter 108, Laws of Utah 1997
- 69 **63A-5-206**, as last amended by Chapters 216 and 231, Laws of Utah 2000
- 70 **72-5-401**, as enacted by Chapter 34, Laws of Utah 2000
- 71 **72-7-502**, as last amended by Chapter 166, Laws of Utah 2003

72 ENACTS:

- 73 **10-9a-201**, Utah Code Annotated 1953
- 74 **10-9a-202**, Utah Code Annotated 1953
- 75 **10-9a-204**, Utah Code Annotated 1953
- 76 **10-9a-205**, Utah Code Annotated 1953
- 77 **10-9a-206**, Utah Code Annotated 1953
- 78 **10-9a-207**, Utah Code Annotated 1953
- 79 **10-9a-208**, Utah Code Annotated 1953
- 80 **10-9a-209**, Utah Code Annotated 1953
- 81 **10-9a-405**, Utah Code Annotated 1953
- 82 **10-9a-508**, Utah Code Annotated 1953
- 83 **10-9a-509**, Utah Code Annotated 1953
- 84 **10-9a-513**, Utah Code Annotated 1953
- 85 **10-9a-701**, Utah Code Annotated 1953
- 86 **10-9a-703**, Utah Code Annotated 1953
- 87 **10-9a-704**, Utah Code Annotated 1953

- 88 **10-9a-705**, Utah Code Annotated 1953
- 89 **10-9a-706**, Utah Code Annotated 1953
- 90 **10-9a-707**, Utah Code Annotated 1953
- 91 **10-9a-708**, Utah Code Annotated 1953
- 92 **17-27a-201**, Utah Code Annotated 1953
- 93 **17-27a-202**, Utah Code Annotated 1953
- 94 **17-27a-204**, Utah Code Annotated 1953
- 95 **17-27a-205**, Utah Code Annotated 1953
- 96 **17-27a-206**, Utah Code Annotated 1953
- 97 **17-27a-207**, Utah Code Annotated 1953
- 98 **17-27a-208**, Utah Code Annotated 1953
- 99 **17-27a-209**, Utah Code Annotated 1953
- 100 **17-27a-405**, Utah Code Annotated 1953
- 101 **17-27a-507**, Utah Code Annotated 1953
- 102 **17-27a-508**, Utah Code Annotated 1953
- 103 **17-27a-512**, Utah Code Annotated 1953
- 104 **17-27a-701**, Utah Code Annotated 1953
- 105 **17-27a-703**, Utah Code Annotated 1953
- 106 **17-27a-704**, Utah Code Annotated 1953
- 107 **17-27a-705**, Utah Code Annotated 1953
- 108 **17-27a-706**, Utah Code Annotated 1953
- 109 **17-27a-707**, Utah Code Annotated 1953
- 110 **17-27a-708**, Utah Code Annotated 1953
- 111 RENUMBERS AND AMENDS:
- 112 **10-9a-101**, (Renumbered from 10-9-101, as enacted by Chapter 235, Laws of Utah
- 113 1991)
- 114 **10-9a-102**, (Renumbered from 10-9-102, as last amended by Chapter 93, Laws of Utah
- 115 1992)
- 116 **10-9a-103**, (Renumbered from 10-9-103, as last amended by Chapters 34 and 209,
- 117 Laws of Utah 2000)
- 118 **10-9a-104**, (Renumbered from 10-9-104, as last amended by Chapter 73, Laws of Utah

119 2001)
120 **10-9a-203**, (Renumbered from 10-9-301.5, as enacted by Chapter 99, Laws of Utah
121 2004)
122 **10-9a-301**, (Renumbered from 10-9-201, as enacted by Chapter 235, Laws of Utah
123 1991)
124 **10-9a-302**, (Renumbered from 10-9-204, as enacted by Chapter 235, Laws of Utah
125 1991)
126 **10-9a-303**, (Renumbered from 10-9-205, as last amended by Chapter 23, Laws of Utah
127 1992)
128 **10-9a-304**, (Renumbered from 10-9-105, as last amended by Chapter 23, Laws of Utah
129 1992)
130 **10-9a-305**, (Renumbered from 10-9-106, as last amended by Chapter 149, Laws of
131 Utah 1999)
132 **10-9a-401**, (Renumbered from 10-9-301, as last amended by Chapter 99, Laws of Utah
133 2004)
134 **10-9a-402**, (Renumbered from 10-9-203, as enacted by Chapter 235, Laws of Utah
135 1991)
136 **10-9a-403**, (Renumbered from 10-9-302, as last amended by Chapter 99, Laws of Utah
137 2004)
138 **10-9a-404**, (Renumbered from 10-9-303, as last amended by Chapter 23, Laws of Utah
139 1992)
140 **10-9a-406**, (Renumbered from 10-9-305, as last amended by Chapter 124, Laws of
141 Utah 2003)
142 **10-9a-407**, (Renumbered from 10-9-306, as last amended by Chapter 34, Laws of Utah
143 2000)
144 **10-9a-408**, (Renumbered from 10-9-307, as last amended by Chapter 202, Laws of
145 Utah 2004)
146 **10-9a-501**, (Renumbered from 10-9-401, as enacted by Chapter 235, Laws of Utah
147 1991)
148 **10-9a-502**, (Renumbered from 10-9-402, as last amended by Chapter 79, Laws of Utah
149 1995)

150 **10-9a-503**, (Renumbered from 10-9-403, as enacted by Chapter 235, Laws of Utah
151 1991)
152 **10-9a-504**, (Renumbered from 10-9-404, as last amended by Chapter 270, Laws of
153 Utah 1998)
154 **10-9a-505**, (Renumbered from 10-9-405, as enacted by Chapter 235, Laws of Utah
155 1991)
156 **10-9a-506**, (Renumbered from 10-9-406, as enacted by Chapter 235, Laws of Utah
157 1991)
158 **10-9a-507**, (Renumbered from 10-9-407, as last amended by Chapter 179, Laws of
159 Utah 1995)
160 **10-9a-510**, (Renumbered from 10-9-107, as enacted by Chapter 169, Laws of Utah
161 1999)
162 **10-9a-511**, (Renumbered from 10-9-408, as last amended by Chapter 138, Laws of
163 Utah 2004)
164 **10-9a-512**, (Renumbered from 10-9-409, as enacted by Chapter 263, Laws of Utah
165 1997)
166 **10-9a-514**, (Renumbered from 10-9-106.5, as last amended by Chapter 253, Laws of
167 Utah 2001)
168 **10-9a-515**, (Renumbered from 10-9-108, as enacted by Chapter 111, Laws of Utah
169 2003)
170 **10-9a-516**, (Renumbered from 10-9-501, as last amended by Chapter 23, Laws of Utah
171 1992)
172 **10-9a-517**, (Renumbered from 10-9-502, as last amended by Chapter 140, Laws of
173 Utah 1999)
174 **10-9a-518**, (Renumbered from 10-9-503, as enacted by Chapter 235, Laws of Utah
175 1991)
176 **10-9a-519**, (Renumbered from 10-9-504, as last amended by Chapter 108, Laws of
177 Utah 1997)
178 **10-9a-520**, (Renumbered from 10-9-605, as last amended by Chapter 283, Laws of
179 Utah 2003)
180 **10-9a-601**, (Renumbered from 10-9-801, as last amended by Chapter 23, Laws of Utah

181 1992)
182 **10-9a-602**, (Renumbered from 10-9-802, as last amended by Chapter 23, Laws of Utah
183 1992)
184 **10-9a-603**, (Renumbered from 10-9-804, as last amended by Chapter 211, Laws of
185 Utah 2003)
186 **10-9a-604**, (Renumbered from 10-9-805, as last amended by Chapter 241, Laws of
187 Utah 2001)
188 **10-9a-605**, (Renumbered from 10-9-806, as last amended by Chapter 291, Laws of
189 Utah 2002)
190 **10-9a-606**, (Renumbered from 10-9-806.5, as enacted by Chapter 241, Laws of Utah
191 2001)
192 **10-9a-607**, (Renumbered from 10-9-807, as last amended by Chapter 209, Laws of
193 Utah 2000)
194 **10-9a-608**, (Renumbered from 10-9-808, as last amended by Chapter 211, Laws of
195 Utah 2003)
196 **10-9a-609**, (Renumbered from 10-9-810, as last amended by Chapter 179, Laws of
197 Utah 1995)
198 **10-9a-610**, (Renumbered from 10-9-901, as enacted by Chapter 235, Laws of Utah
199 1991)
200 **10-9a-611**, (Renumbered from 10-9-811, as last amended by Chapter 241, Laws of
201 Utah 2001)
202 **10-9a-702**, (Renumbered from 10-9-707, as last amended by Chapter 23, Laws of Utah
203 1992)
204 **10-9a-801**, (Renumbered from 10-9-1001, as last amended by Chapter 223, Laws of
205 Utah 2004)
206 **10-9a-802**, (Renumbered from 10-9-1002, as enacted by Chapter 235, Laws of Utah
207 1991)
208 **10-9a-803**, (Renumbered from 10-9-1003, as last amended by Chapter 23, Laws of
209 Utah 1992)
210 **17-27a-101**, (Renumbered from 17-27-101, as enacted by Chapter 235, Laws of Utah
211 1991)

212 **17-27a-102**, (Renumbered from 17-27-102, as last amended by Chapter 107, Laws of
213 Utah 2001)

214 **17-27a-103**, (Renumbered from 17-27-103, as last amended by Chapters 66 and 241,
215 Laws of Utah 2001)

216 **17-27a-104**, (Renumbered from 17-27-104, as last amended by Chapter 73, Laws of
217 Utah 2001)

218 **17-27a-203**, (Renumbered from 17-27-301.5, as enacted by Chapter 99, Laws of Utah
219 2004)

220 **17-27a-301**, (Renumbered from 17-27-201, as last amended by Chapter 13, Laws of
221 Utah 1998)

222 **17-27a-302**, (Renumbered from 17-27-204, as last amended by Chapter 3, Laws of
223 Utah 1997, Second Special Session)

224 **17-27a-303**, (Renumbered from 17-27-205, as last amended by Chapter 225, Laws of
225 Utah 1995)

226 **17-27a-304**, (Renumbered from 17-27-104.5, as enacted by Chapter 179, Laws of Utah
227 1995)

228 **17-27a-305**, (Renumbered from 17-27-105, as last amended by Chapter 149, Laws of
229 Utah 1999)

230 **17-27a-306**, (Renumbered from 17-27-200.5, as last amended by Chapter 3, Laws of
231 Utah 1997, Second Special Session)

232 **17-27a-307**, (Renumbered from 17-27-206, as last amended by Chapter 3, Laws of
233 Utah 1997, Second Special Session)

234 **17-27a-401**, (Renumbered from 17-27-301, as last amended by Chapter 99, Laws of
235 Utah 2004)

236 **17-27a-402**, (Renumbered from 17-27-203, as last amended by Chapter 225, Laws of
237 Utah 1995)

238 **17-27a-403**, (Renumbered from 17-27-302, as last amended by Chapter 99, Laws of
239 Utah 2004)

240 **17-27a-404**, (Renumbered from 17-27-303, as last amended by Chapter 16, Laws of
241 Utah 2003)

242 **17-27a-406**, (Renumbered from 17-27-305, as last amended by Chapter 124, Laws of

243 Utah 2003)
244 **17-27a-407**, (Renumbered from 17-27-306, as last amended by Chapter 34, Laws of
245 Utah 2000)
246 **17-27a-408**, (Renumbered from 17-27-307, as last amended by Chapter 202, Laws of
247 Utah 2004)
248 **17-27a-409**, (Renumbered from 17-27-308, as enacted by Chapter 107, Laws of Utah
249 2001)
250 **17-27a-501**, (Renumbered from 17-27-401, as enacted by Chapter 235, Laws of Utah
251 1991)
252 **17-27a-502**, (Renumbered from 17-27-402, as last amended by Chapter 23, Laws of
253 Utah 1992)
254 **17-27a-503**, (Renumbered from 17-27-403, as enacted by Chapter 235, Laws of Utah
255 1991)
256 **17-27a-504**, (Renumbered from 17-27-404, as last amended by Chapter 270, Laws of
257 Utah 1998)
258 **17-27a-505**, (Renumbered from 17-27-405, as enacted by Chapter 235, Laws of Utah
259 1991)
260 **17-27a-506**, (Renumbered from 17-27-406, as last amended by Chapter 241, Laws of
261 Utah 2001)
262 **17-27a-509**, (Renumbered from 17-27-106, as last amended by Chapter 131, Laws of
263 Utah 2003)
264 **17-27a-510**, (Renumbered from 17-27-407, as last amended by Chapter 138, Laws of
265 Utah 2004)
266 **17-27a-511**, (Renumbered from 17-27-408, as enacted by Chapter 263, Laws of Utah
267 1997)
268 **17-27a-513**, (Renumbered from 17-27-105.5, as last amended by Chapter 253, Laws of
269 Utah 2001)
270 **17-27a-514**, (Renumbered from 17-27-107, as enacted by Chapter 111, Laws of Utah
271 2003)
272 **17-27a-515**, (Renumbered from 17-27-501, as last amended by Chapter 23, Laws of
273 Utah 1992)

274 **17-27a-516**, (Renumbered from 17-27-502, as last amended by Chapter 140, Laws of
275 Utah 1999)

276 **17-27a-517**, (Renumbered from 17-27-503, as enacted by Chapter 235, Laws of Utah
277 1991)

278 **17-27a-518**, (Renumbered from 17-27-504, as last amended by Chapter 108, Laws of
279 Utah 1997)

280 **17-27a-519**, (Renumbered from 17-27-605, as last amended by Chapter 283, Laws of
281 Utah 2003)

282 **17-27a-601**, (Renumbered from 17-27-801, as enacted by Chapter 235, Laws of Utah
283 1991)

284 **17-27a-602**, (Renumbered from 17-27-802, as last amended by Chapter 23, Laws of
285 Utah 1992)

286 **17-27a-603**, (Renumbered from 17-27-804, as last amended by Chapter 211, Laws of
287 Utah 2003)

288 **17-27a-604**, (Renumbered from 17-27-805, as last amended by Chapter 241, Laws of
289 Utah 2001)

290 **17-27a-605**, (Renumbered from 17-27-806, as last amended by Chapter 211, Laws of
291 Utah 2003)

292 **17-27a-606**, (Renumbered from 17-27-806.5, as enacted by Chapter 241, Laws of Utah
293 2001)

294 **17-27a-607**, (Renumbered from 17-27-807, as last amended by Chapter 209, Laws of
295 Utah 2000)

296 **17-27a-608**, (Renumbered from 17-27-808, as last amended by Chapter 211, Laws of
297 Utah 2003)

298 **17-27a-609**, (Renumbered from 17-27-810, as last amended by Chapter 241, Laws of
299 Utah 2001)

300 **17-27a-610**, (Renumbered from 17-27-901, as last amended by Chapter 241, Laws of
301 Utah 2001)

302 **17-27a-611**, (Renumbered from 17-27-811, as last amended by Chapter 291, Laws of
303 Utah 2002)

304 **17-27a-702**, (Renumbered from 17-27-707, as last amended by Chapter 179, Laws of

305 Utah 1995)
306 **17-27a-801**, (Renumbered from 17-27-1001, as last amended by Chapter 223, Laws of
307 Utah 2004)
308 **17-27a-802**, (Renumbered from 17-27-1002, as enacted by Chapter 235, Laws of Utah
309 1991)
310 **17-27a-803**, (Renumbered from 17-27-1003, as last amended by Chapter 23, Laws of
311 Utah 1992)
312 REPEALS:
313 **10-8-8.1**, as last amended by Chapter 180, Laws of Utah 1995
314 **10-8-8.2**, as last amended by Chapter 180, Laws of Utah 1995
315 **10-8-8.3**, as enacted by Chapter 14, Laws of Utah 1955
316 **10-8-8.4**, as last amended by Chapter 84, Laws of Utah 1997
317 **10-9-103.5**, as enacted by Chapter 339, Laws of Utah 1999
318 **10-9-202**, as enacted by Chapter 235, Laws of Utah 1991
319 **10-9-304**, as enacted by Chapter 235, Laws of Utah 1991
320 **10-9-701**, as last amended by Chapter 23, Laws of Utah 1992
321 **10-9-702**, as last amended by Chapter 23, Laws of Utah 1992
322 **10-9-703**, as last amended by Chapter 23, Laws of Utah 1992
323 **10-9-704**, as last amended by Chapter 179, Laws of Utah 1995
324 **10-9-705**, as last amended by Chapter 23, Laws of Utah 1992
325 **10-9-706**, as enacted by Chapter 235, Laws of Utah 1991
326 **10-9-708**, as last amended by Chapter 223, Laws of Utah 2004
327 **10-9-803**, as enacted by Chapter 235, Laws of Utah 1991
328 **10-9-809**, as last amended by Chapter 69, Laws of Utah 1997
329 **17-27-103.5**, as enacted by Chapter 339, Laws of Utah 1999
330 **17-27-202**, as last amended by Chapters 179 and 225, Laws of Utah 1995
331 **17-27-304**, as enacted by Chapter 235, Laws of Utah 1991
332 **17-27-701**, as last amended by Chapter 179, Laws of Utah 1995
333 **17-27-702**, as last amended by Chapter 241, Laws of Utah 2001
334 **17-27-703**, as last amended by Chapter 241, Laws of Utah 2001
335 **17-27-704**, as last amended by Chapter 241, Laws of Utah 2001

- 336 17-27-705, as last amended by Chapter 23, Laws of Utah 1992
- 337 17-27-706, as enacted by Chapter 235, Laws of Utah 1991
- 338 17-27-708, as last amended by Chapter 223, Laws of Utah 2004
- 339 17-27-803, as enacted by Chapter 235, Laws of Utah 1991
- 340 17-27-809, as last amended by Chapter 241, Laws of Utah 2001



341 *Be it enacted by the Legislature of the state of Utah:*

342 Section 1. Section **9-4-1204** is amended to read:

343 **9-4-1204. Technical assistance to political subdivisions for housing plan.**

344 (1) Within appropriations from the Legislature, the division shall establish a program
345 to assist municipalities to meet the requirements of Section [~~10-9-307~~] 10-9a-408 and counties
346 to meet the requirements of Section [~~17-27-307~~] 17-27a-408. Assistance under this section may
347 include:
348

- 349 (a) financial assistance for the cost of developing a plan for low and moderate income
350 housing;
- 351 (b) information on how to meet present and prospective needs for low and moderate
352 income housing; and
- 353 (c) technical advice and consultation on how to facilitate the creation of low and
354 moderate income housing.

355 (2) The division shall annually report to the Workforce Services and Community and
356 Economic Development Interim Committee, and to the Health and Human Services Interim
357 Committee regarding the scope, amount, and type of assistance provided to municipalities and
358 counties under this section, including the number of low and moderate income housing units
359 constructed or rehabilitated within the state.

360 Section 2. Section **10-8-2** is amended to read:

361 **10-8-2. Appropriations -- Acquisition and disposal of property -- Corporate**
362 **purpose -- Procedure -- Notice of intent to acquire real property.**

- 363 (1) A municipal legislative body may:
- 364 (a) appropriate money for corporate purposes only;
- 365 (b) provide for payment of debts and expenses of the corporation;
- 366 (c) subject to Subsections (4) and (5), purchase, receive, hold, sell, lease, convey, and

367 dispose of real and personal property for the benefit of the municipality, whether the property is
368 within or without the municipality's corporate boundaries;

369 (d) improve, protect, and do any other thing in relation to this property that an
370 individual could do; and

371 (e) subject to Subsection (2) and after first holding a public hearing, authorize
372 municipal services or other nonmonetary assistance to be provided to or waive fees required to
373 be paid by a nonprofit entity, whether or not the municipality receives consideration in return.

374 (2) Services or assistance provided pursuant to Subsection (1)(e) is not subject to the
375 provisions of Subsection (3). The total amount of services or other nonmonetary assistance
376 provided or fees waived under Subsection (1)(e) in any given fiscal year may not exceed 1% of
377 the municipality's budget for that fiscal year.

378 (3) It is considered a corporate purpose to appropriate money for any purpose that, in
379 the judgment of the municipal legislative body, provides for the safety, health, prosperity,
380 moral well-being, peace, order, comfort, or convenience of the inhabitants of the municipality
381 subject to the following:

382 (a) The net value received for any money appropriated shall be measured on a
383 project-by-project basis over the life of the project.

384 (b) The criteria for a determination under this Subsection (3) shall be established by the
385 municipality's legislative body. A determination of value received, made by the municipality's
386 legislative body, shall be presumed valid unless it can be shown that the determination was
387 arbitrary, capricious, or illegal.

388 (c) The municipality may consider intangible benefits received by the municipality in
389 determining net value received.

390 (d) Prior to the municipal legislative body making any decision to appropriate any
391 funds for a corporate purpose under this section, a public hearing shall be held. Notice of the
392 hearing shall be published in a newspaper of general circulation at least 14 days prior to the
393 date of the hearing, or, if there is no newspaper of general circulation, by posting notice in at
394 least three conspicuous places within the municipality for the same time period.

395 (e) A study shall be performed before notice of the public hearing is given and shall be
396 made available at the municipality for review by interested parties at least 14 days immediately
397 prior to the public hearing, setting forth an analysis and demonstrating the purpose for the

398 appropriation. In making the study, the following factors shall be considered:

399 (i) what identified benefit the municipality will receive in return for any money or
400 resources appropriated;

401 (ii) the municipality's purpose for the appropriation, including an analysis of the way
402 the appropriation will be used to enhance the safety, health, prosperity, moral well-being,
403 peace, order, comfort, or convenience of the inhabitants of the municipality; and

404 (iii) whether the appropriation is necessary and appropriate to accomplish the
405 reasonable goals and objectives of the municipality in the area of economic development, job
406 creation, affordable housing, blight elimination, job preservation, the preservation of historic
407 structures and property, and any other public purpose.

408 (f) An appeal may be taken from a final decision of the municipal legislative body, to
409 make an appropriation. The appeal shall be filed within 30 days after the date of that decision,
410 to the district court. Any appeal shall be based on the record of the proceedings before the
411 legislative body. A decision of the municipal legislative body shall be presumed to be valid
412 unless the appealing party shows that the decision was arbitrary, capricious, or illegal.

413 (g) The provisions of this Subsection (3) apply only to those appropriations made after
414 May 6, 2002.

415 (h) This section shall only apply to appropriations not otherwise approved pursuant to
416 Title 10, Chapter 5, Uniform Fiscal Procedures Act for Utah Towns, or Title 10, Chapter 6,
417 Uniform Fiscal Procedures Act for Utah Cities.

418 (4) (a) Before a municipality may dispose of a significant parcel of real property, the
419 municipality shall:

420 (i) provide reasonable notice of the proposed disposition at least 14 days before the
421 opportunity for public comment under Subsection (4)(a)(ii); and

422 (ii) allow an opportunity for public comment on the proposed disposition.

423 (b) Each municipality shall, by ordinance, define what constitutes:

424 (i) a significant parcel of real property for purposes of Subsection (4)(a); and

425 (ii) reasonable notice for purposes of Subsection (4)(a)(i).

426 (5) (a) Except as provided in Subsection (5)(d), each municipality intending to acquire
427 real property for the purpose of expanding the municipality's infrastructure or other facilities
428 used for providing services that the municipality offers or intends to offer shall provide written

429 notice, as provided in this Subsection (5), of its intent to acquire the property if:

430 (i) the property is located:

431 (A) outside the boundaries of the municipality; and

432 (B) in a county of the first or second class; and

433 (ii) the intended use of the property is contrary to:

434 (A) the anticipated use of the property under the general plan of the county in whose
435 unincorporated area or the municipality in whose boundaries the property is located; or

436 (B) the property's current zoning designation.

437 (b) Each notice under Subsection (5)(a) shall:

438 (i) indicate that the municipality intends to acquire real property;

439 (ii) identify the real property; and

440 (iii) be sent to:

441 (A) each county in whose unincorporated area and each municipality in whose
442 boundaries the property is located; and

443 (B) each affected entity.

444 (c) A notice under this Subsection (5) is a protected record as provided in Subsection
445 63-2-304(7).

446 (d) (i) The notice requirement of Subsection (5)(a) does not apply if the municipality
447 previously provided notice under Section [~~10-9-301.5~~] 10-9a-203 identifying the general
448 location within the municipality or unincorporated part of the county where the property to be
449 acquired is located.

450 (ii) If a municipality is not required to comply with the notice requirement of
451 Subsection (5)(a) because of application of Subsection (5)(d)(i), the municipality shall provide
452 the notice specified in Subsection (5)(a) as soon as practicable after its acquisition of the real
453 property.

454 Section 3. Section **10-8-8** is amended to read:

455 **10-8-8. Streets, parks, airports, parking facilities, public grounds, and pedestrian**
456 **malls.**

457 [~~They~~] A municipal legislative body may lay out, establish, open, alter, widen, narrow,
458 extend, grade, pave, or otherwise improve streets, alleys, avenues, boulevards, sidewalks,
459 parks, airports, parking lots, or other facilities for the parking of vehicles off streets, public

460 grounds, and pedestrian malls and may vacate the same or parts thereof, ~~[by ordinance]~~ as
461 provided in this title.

462 Section 4. Section **10-9a-101**, which is renumbered from Section 10-9-101 is
463 renumbered and amended to read:

464 **CHAPTER 9a. MUNICIPAL LAND USE, DEVELOPMENT, AND MANAGEMENT**
465 **ACT**

466 **Part 1. General Provisions**

467 ~~[10-9-101].~~ **10-9a-101. Title.**

468 This chapter ~~[shall be]~~ is known as [~~The~~] the "Municipal Land Use, Development, and
469 Management Act."

470 Section 5. Section **10-9a-102**, which is renumbered from Section 10-9-102 is
471 renumbered and amended to read:

472 ~~[10-9-102].~~ **10-9a-102. Purpose -- General land use authority.**

473 ~~[To accomplish the purpose]~~

474 (1) The purposes of this chapter~~[, and in order]~~ are to provide for the health, safety, and
475 welfare, and promote the prosperity, improve the morals, peace and good order, comfort,
476 convenience, and aesthetics of [~~the~~] each municipality and its present and future inhabitants
477 and businesses, to protect the tax base, to secure economy in governmental expenditures, to
478 foster the state's agricultural and other industries, to protect both urban and nonurban
479 development, to protect and ensure access to sunlight for solar energy devices, and to protect
480 property values~~[;]~~.

481 (2) To accomplish the purposes of this chapter, municipalities may enact all
482 ordinances, resolutions, and rules and may enter into other forms of land use controls and
483 development agreements that they consider necessary or appropriate for the use and
484 development of land within the municipality, including ordinances, resolutions, [~~and~~] rules,
485 restrictive covenants, easements, and development agreements governing uses, density, open
486 spaces, structures, buildings, energy efficiency, light and air, air quality, transportation and
487 public or alternative transportation, infrastructure, street and building orientation and width
488 requirements, public facilities, and height and location of vegetation, [~~and~~] trees, and
489 landscaping, unless [~~those ordinances, resolutions, or rules are~~] expressly prohibited by law.

490 Section 6. Section **10-9a-103**, which is renumbered from Section 10-9-103 is

491 renumbered and amended to read:

492 ~~[10-9-103].~~ **10-9a-103. Definitions.**

493 ~~[(+)]~~ As used in this chapter:

494 (1) "Affected entity" means a county, municipality, independent special district under
495 Title 17A, Chapter 2, Independent Special Districts, local district under Title 17B, Chapter 2,
496 Local Districts, school district, interlocal cooperation entity established under Title 11, Chapter
497 13, Interlocal Cooperation Act, specified public utility, or the Utah Department of
498 Transportation, if:

499 (a) the entity's services or facilities are likely to require expansion or significant
500 modification because of an intended use of land;

501 (b) the entity has filed with the municipality a copy of the entity's general or long-range
502 plan; or

503 (c) the entity's boundaries or facilities are within one mile of land which is the subject
504 of a general plan amendment or land use ordinance change.

505 (2) "Appeal authority" means the person, board, commission, agency, or other body
506 designated by ordinance to decide an appeal of a decision of a land use application or a
507 variance.

508 ~~[(a)]~~ (3) "Billboard" means a freestanding ground sign located on industrial,
509 commercial, or residential property if the sign is designed or intended to direct attention to a
510 business, product, or service that is not sold, offered, or existing on the property where the sign
511 is located.

512 ~~[(b)]~~ (4) "Chief executive officer" means the:

513 ~~[(i) the]~~ (a) mayor in municipalities operating under all forms of municipal
514 government except the council-manager form; or

515 ~~[(ii) the]~~ (b) city manager in municipalities operating under the council-manager form
516 of municipal government.

517 ~~[(c)]~~ (5) "Conditional use" means a land use that, because of its unique characteristics
518 or potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not
519 be compatible in some areas or may be compatible only if certain conditions are required that
520 mitigate or eliminate the detrimental impacts.

521 ~~[(d) "Constitutional taking" has the meaning as defined in Section 63-34-13.]~~

522 ~~[(e) "County" means the unincorporated area of the county.]~~

523 (6) "Constitutional taking" means a governmental action that results in a taking of
524 private property so that compensation to the owner of the property is required by the:

525 (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

526 (b) Utah Constitution Article I, Section 22.

527 (7) "Culinary water authority" means the department, agency, or public entity with
528 responsibility to review and approve the feasibility of the culinary water system and sources for
529 the subject property.

530 (8) (a) "Disability" means a physical or mental impairment that substantially limits one
531 or more of a person's major life activities, including a person having a record of such an
532 impairment or being regarded as having such an impairment.

533 (b) "Disability" does not include current illegal use of, or addiction to, any federally
534 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
535 802.

536 ~~[(f)]~~ (9) "Elderly person" means a person who is 60 years old or older, who desires or
537 needs to live with other elderly persons in a group setting, but who is capable of living
538 independently.

539 ~~[(g)-(i)]~~ (10) "General plan" means a document that a municipality adopts that sets
540 forth general guidelines for proposed future development of the land within the municipality[;
541 as set forth in Sections 10-9-301 and 10-9-302].

542 ~~[(ii) "General plan" includes what is also commonly referred to as a "master plan."]~~

543 ~~[(h) "Legislative body" means the city council or city commission.]~~

544 ~~[(i) "Lot line adjustment" in a subdivision means the relocation of the property~~
545 ~~boundary line between two adjoining lots with the consent of the owners of record.]~~

546 ~~[(j) "Municipality" means a city or town.]~~

547 ~~[(k) "Nonconforming]~~

548 (11) "Identical plans" means building plans submitted to a municipality that are
549 substantially identical to building plans that were previously submitted to and reviewed and
550 approved by the municipality and describe a building that is:

551 (a) located on land zoned the same as the land on which the building described in the
552 previously approved plans is located; and

553 (b) subject to the same geological and meteorological conditions and the same law as
 554 the building described in the previously approved plans.

555 (12) "Land use application" means an application required by a municipality's land use
 556 ordinance.

557 (13) "Land use authority" means a person, board, commission, agency, or other body
 558 designated by the local legislative body to act upon a land use application.

559 (14) "Land use ordinance" means a planning, zoning, development, or subdivision
 560 ordinance of the municipality, but does not include the general plan.

561 (15) "Legislative body" means the municipal council.

562 (16) "Lot line adjustment" means the relocation of the property boundary line in a
 563 subdivision between two adjoining lots with the consent of the owners of record.

564 (17) "Moderate income housing" means housing occupied or reserved for occupancy
 565 by households with a gross household income equal to or less than 80% of the median gross
 566 income for households of the same size in the county in which the city is located.

567 (18) "Nominal fee" means a fee that reasonably reimburses a municipality only for time
 568 spent and expenses incurred in:

569 (a) verifying that building plans are identical plans; and

570 (b) reviewing and approving those minor aspects of identical plans that differ from the
 571 previously reviewed and approved building plans.

572 (19) "Noncomplying structure" means a structure that:

573 [(i)] (a) legally existed before its current [zoning] land use designation; and

574 [(ii)] (b) because of one or more subsequent [zoning] land use ordinance changes, does
 575 not conform [with] to the [zoning regulation's] setback, height restrictions, or other regulations
 576 [that], excluding those regulations, which govern the [structure] use of land.

577 [(+) (20) "Nonconforming use" means a use of land that:

578 [(i)] (a) legally existed before its current [zoning] land use designation;

579 [(ii)] (b) has been maintained continuously since the time the [zoning regulation] land
 580 use ordinance governing the land changed; and

581 [(iii)] (c) because of one or more subsequent [zoning] land use ordinance changes, does
 582 not conform [with] to the [zoning] regulations that now govern the [land] use of the land.

583 [(m) "Official map" has the same meaning as provided in Section 72-5-401.]

584 (21) "Official map" means a map drawn by municipal authorities and recorded in a
585 county recorder's office that:

586 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
587 highways and other transportation facilities;

588 (b) provides a basis for restricting development in designated rights-of-way or between
589 designated setbacks to allow the government authorities time to purchase or otherwise reserve
590 the land; and

591 (c) has been adopted as an element of the municipality's general plan.

592 (22) "Person" means an individual, corporation, partnership, organization, association,
593 trust, governmental agency, or any other legal entity.

594 (23) "Plan for moderate income housing" means a written document adopted by a city
595 legislative body that includes:

596 (a) an estimate of the existing supply of moderate income housing located within the
597 city;

598 (b) an estimate of the need for moderate income housing in the city for the next five
599 years as revised biennially;

600 (c) a survey of total residential land use;

601 (d) an evaluation of how existing land uses and zones affect opportunities for moderate
602 income housing; and

603 (e) a description of the city's program to encourage an adequate supply of moderate
604 income housing.

605 ~~[(m)]~~ (24) "Plat" means a map or other graphical representation of lands being laid out
606 and prepared in accordance with ~~[Section 10-9-804]~~ Section 10-9a-603, 17-23-17, or 57-8-13.

607 (25) "Public hearing" means a hearing at which members of the public are provided a
608 reasonable opportunity to comment on the subject of the hearing.

609 (26) "Public meeting" means a meeting that is required to be open to the public under
610 Title 52, Chapter 4, Open and Public Meetings.

611 ~~[(n)]~~ (27) "Record of survey map" means a map of a survey of land prepared in
612 accordance with Section 17-23-17.

613 ~~[(p)]~~ (i) (28) "Residential facility for elderly persons" means a single-family or
614 multiple-family dwelling unit that meets the requirements of Part ~~5~~ and any ordinance adopted

615 under authority of that part. ~~(ii) "Residential facility for elderly persons"]~~ 4, General Plan, but
 616 does not include a health care facility as defined by Section 26-21-2.

617 (29) "Residential facility for persons with a disability" means a residence:

618 (a) in which more than one person with a disability resides; and

619 (b) (i) is licensed or certified by the Department of Human Services under Title 62A,
 620 Chapter 2, Licensure of Programs and Facilities; or

621 (ii) is licensed or certified by the Department of Health under Title 26, Chapter 21,
 622 Health Care Facility Licensing and Inspection Act.

623 (30) "Sanitary sewer authority" means the department, agency, or public entity with
 624 responsibility to review and approve the feasibility of sanitary sewer services or onsite
 625 wastewater systems.

626 ~~[(q)]~~ (31) "Special district" means [all entities] an entity established under the authority
 627 of Title 17A, Special Districts, and any other governmental or quasi-governmental entity that is
 628 not a county, municipality, school district, or unit of the state.

629 ~~[(r) "Street" means public rights-of-way, including highways, avenues, boulevards,~~
 630 ~~parkways, roads, lanes, walks, alleys, viaducts, subways, tunnels, bridges, public easements,~~
 631 ~~and other ways.]~~

632 (32) "Specified public utility" means an electrical corporation, gas corporation, or
 633 telephone corporation, as those terms are defined in Section 54-2-1.

634 (33) "Street" means a public right-of-way, including a highway, avenue, boulevard,
 635 parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other
 636 way.

637 ~~[(s)(i)]~~ (34) "Subdivision" means any land that is divided, resubdivided or proposed to
 638 be divided into two or more lots, parcels, sites, units, plots, or other division of land for the
 639 purpose, whether immediate or future, for offer, sale, lease, or development either on the
 640 installment plan or upon any and all other plans, terms, and conditions.

641 ~~[(ii)]~~ (a) "Subdivision" includes:

642 ~~[(A)]~~ (i) the division or development of land whether by deed, metes and bounds
 643 description, devise and testacy, [lease;] map, plat, or other recorded instrument; and

644 ~~[(B)]~~ (ii) except as provided in Subsection ~~[(1)(s)(iii)]~~ (34)(b), divisions of land for
 645 [all] residential and nonresidential uses, including land used or to be used for commercial,

646 agricultural, and industrial purposes.

647 ~~[(iii)]~~ (b) "Subdivision" does not include:

648 ~~[(A)]~~ (i) a bona fide division or partition of agricultural land for the purpose of joining
649 one of the resulting separate unsubdivided parcels to a contiguous parcel of unsubdivided
650 agricultural land, if neither the resulting combined parcel nor the parcel remaining from the
651 division or partition violates an applicable ~~[zoning]~~ land use ordinance;

652 ~~[(B)]~~ (ii) a recorded agreement between owners of adjoining unsubdivided properties
653 adjusting their mutual boundary if:

654 ~~[(F)]~~ (A) no new lot is created; and

655 ~~[(H)]~~ (B) the adjustment does not ~~[result in a violation of]~~ violate applicable ~~[zoning]~~
656 land use ordinances; or

657 ~~[(E)]~~ (iii) a recorded document, executed by the owner of record[-];

658 (A) revising the legal description of more than one contiguous unsubdivided parcel of
659 property into one legal description encompassing all such parcels of property[-]; or

660 (B) joining a subdivided parcel of property to another parcel of property that has not
661 been subdivided, if the joinder does not violate applicable land use ordinances.

662 ~~[(iv)]~~ (c) The joining of a subdivided parcel of property to another parcel of property
663 that has not been subdivided does not constitute a ["subdivision["] under this Subsection

664 ~~[(1)(s)]~~ (34) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the
665 municipality's subdivision ordinance.

666 ~~[(t)]~~ (35) "Unincorporated" means the area outside of the incorporated ~~[boundaries of~~
667 ~~cities and towns]~~ area of a city or town.

668 ~~[(2)(a)]~~ A municipality meets the requirements of reasonable notice required by this
669 chapter if it:]

670 ~~[(i)]~~ posts notice of the hearing or meeting in at least three public places within the
671 jurisdiction and publishes notice of the hearing or meeting in a newspaper of general
672 circulation in the jurisdiction, if one is available; or]

673 ~~[(ii)]~~ gives actual notice of the hearing or meeting.;

674 ~~[(b)]~~ A municipal legislative body may enact an ordinance establishing stricter notice
675 requirements than those required by this Subsection (2).]

676 ~~[(c)(i)]~~ Proof that one of the two forms of notice authorized by this Subsection (2) was

677 given is prima facie evidence that notice was properly given.]

678 [(ii) If notice given under authority of this section is not challenged as provided in
679 Section 10-9-1001 within 30 days from the date of the meeting for which the notice was given,
680 the notice is considered adequate and proper.]

681 (36) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts
682 land use zones, overlays, or districts.

683 Section 7. Section **10-9a-104**, which is renumbered from Section 10-9-104 is
684 renumbered and amended to read:

685 **[10-9-104]. 10-9a-104. Stricter requirements.**

686 (1) Except as provided in Subsection (2), [~~municipalities~~] a municipality may enact
687 [~~ordinances~~] an ordinance imposing stricter requirements or higher standards than are required
688 by this chapter.

689 (2) A municipality may not impose stricter requirements or higher standards than are
690 required by:

- 691 (a) Section [~~10-9-106~~] 10-9a-305;
- 692 [~~(b) Section 10-9-106.5;~~]
- 693 [~~(c) Part 5, Residential Facilities for Elderly; and~~]
- 694 [~~(d) Part 6, Residential Facilities for Persons with a Disability.~~]
- 695 (b) Section 10-9a-514;
- 696 (c) Section 10-9a-516; and
- 697 (d) Section 10-9a-520.

698 Section 8. Section **10-9a-201** is enacted to read:

699 **Part 2. Notice**

700 **10-9a-201. Required notice.**

701 (1) At a minimum, each municipality shall provide actual notice or the notice required
702 by this part.

703 (2) A municipality may by ordinance require greater notice than required under this
704 part.

705 Section 9. Section **10-9a-202** is enacted to read:

706 **10-9a-202. Applicant notice.**

707 For each land use application, the municipality shall notify the applicant of the date,

708 time, and place of each public hearing and public meeting to consider the application and of
709 any final action on a pending application.

710 Section 10. Section **10-9a-203**, which is renumbered from Section 10-9-301.5 is
711 renumbered and amended to read:

712 ~~[10-9-301.5].~~ **10-9a-203. Notice of intent to prepare a general plan or**
713 **comprehensive amendments to a general plan in certain municipalities.**

714 ~~[(1) As used in this section:]~~

715 ~~[(a) (i) "Affected entity" means each county, municipality, independent special district~~
716 ~~under Title 17A, Chapter 2, Independent Special Districts, local district under Title 17B,~~
717 ~~Chapter 2, Local Districts, school district, interlocal cooperation entity established under Title~~
718 ~~11, Chapter 13, Interlocal Cooperation Act, and specified public utility:]~~

719 ~~[(A) whose services or facilities are likely to require expansion or significant~~
720 ~~modification because of an intended use of land; or]~~

721 ~~[(B) that has filed with the municipality a copy of the entity's general or long-range~~
722 ~~plan.]~~

723 ~~[(ii) "Affected entity" does not include the municipality that is required under this~~
724 ~~section to provide notice:]~~

725 ~~[(b) "Specified public utility" means an electrical corporation, gas corporation, or~~
726 ~~telephone corporation, as those terms are defined in Section 54-2-1.]~~

727 ~~[(2)]~~ (1) Before preparing a proposed general plan or ~~[amendments to an existing]~~ a
728 comprehensive general plan amendment, each municipality within a county of the first or
729 second class shall provide ~~[written]~~ ten calendar days notice~~[-as provided in this section,]~~ of its
730 intent to prepare a proposed general plan or ~~[amendments to a]~~ a comprehensive general plan~~[:]~~
731 amendment to:

732 (a) each affected entity;

733 (b) the Automated Geographic Reference Center created in Section 63A-6-202;

734 (c) the association of governments, established pursuant to an interlocal agreement
735 under Title 11, Chapter 13, Interlocal Cooperation Act, of which the municipality is a member;
736 and

737 (d) the state planning coordinator appointed under Section 63-38d-202.

738 ~~[(3)]~~ (2) Each notice under Subsection ~~[(2)]~~ (1) shall:

739 (a) indicate that the municipality intends to prepare a general plan or [~~amendments to~~
740 a comprehensive general plan amendment, as the case may be;

741 (b) describe or provide a map of the geographic area that will be affected by the general
742 plan or [~~amendments to a general plan~~] amendment;

743 (c) be sent [~~to:~~] by mail, e-mail, or other effective means;

744 [~~(i) each affected entity;~~]

745 [~~(ii) the Automated Geographic Reference Center created in Section 63A-6-202;~~]

746 [~~(iii) the association of governments, established pursuant to an interlocal agreement
747 under Title 11, Chapter 13, Interlocal Cooperation Act, of which the municipality is a member;
748 and]~~

749 [~~(iv) the state planning coordinator appointed under Section 63-38d-202;~~]

750 (d) [~~with respect to the notice to affected entities;~~] invite the affected entities to provide
751 information for the municipality to consider in the process of preparing, adopting, and
752 implementing a general plan or [~~amendments to a general plan~~] amendment concerning:

753 (i) impacts that the use of land proposed in the proposed general plan or [~~amendments
754 to a general plan~~] amendment may have [~~on the affected entity~~]; and

755 (ii) uses of land within the municipality that the affected entity is [~~planning or~~
756 considering that may conflict with the proposed general plan or [~~amendments to the general
757 plan~~] amendment; and

758 (e) include the address of an Internet website, if the municipality has one, and the name
759 and telephone number of a person where more information can be obtained concerning the
760 municipality's proposed general plan or [~~amendments to a general plan~~] amendment.

761 Section 11. Section **10-9a-204** is enacted to read:

762 **10-9a-204. Notice of public hearings and public meetings to consider general plan.**

763 (1) Each municipality shall provide:

764 (a) notice of the date, time, and place of the first public hearing to consider the original
765 adoption or any modification of all or any portion of a general plan; and

766 (b) notice of each public meeting on the subject.

767 (2) Each notice of a public hearing under Subsection (1)(a) shall be at least ten
768 calendar days before the public hearing and shall be:

769 (a) published in a newspaper of general circulation in the area;

770 (b) mailed to each affected entity; and
771 (c) posted:
772 (i) in at least three public locations within the municipality; or
773 (ii) on the municipality's official website.
774 (3) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours
775 before the meeting and shall be:
776 (a) submitted to a newspaper of general circulation in the area; and
777 (b) posted:
778 (i) in at least three public locations within the municipality; or
779 (ii) on the municipality's official website.
780 Section 12. Section **10-9a-205** is enacted to read:
781 **10-9a-205. Notice of public hearings and public meetings on adoption or**
782 **modification of land use ordinance.**
783 (1) Each municipality shall give:
784 (a) notice of the date, time, and place of the first public hearing to consider the
785 adoption or any modification of a land use ordinance; and
786 (b) notice of each public meeting on the subject.
787 (2) Each notice of a public hearing under Subsection (1)(a) shall be:
788 (a) mailed to each affected entity at least ten calendar days before the public hearing;
789 (b) posted:
790 (i) in at least three public locations within the municipality; or
791 (ii) on the municipality's official website; and
792 (c) (i) published in a newspaper of general circulation in the area at least ten calendar
793 days before the public hearing; or
794 (ii) mailed at least three days before the public hearing to:
795 (A) each property owner whose land is directly affected by the land use ordinance
796 change; and
797 (B) each adjacent property owner within the parameters specified by municipal
798 ordinance.
799 (3) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours
800 before the meeting and shall be posted:

801 (a) in at least three public locations within the municipality; or
802 (b) on the municipality's official website.

803 Section 13. Section **10-9a-206** is enacted to read:

804 **10-9a-206. Third party notice.**

805 (1) If a municipality requires notice to adjacent property owners, the municipality shall:

806 (a) mail notice to the record owner of each parcel within parameters specified by
807 municipal ordinance; or

808 (b) post notice on the property with a sign of sufficient size, durability, print quality,
809 and location that is reasonably calculated to give notice to passers-by.

810 (2) If a municipality mails notice to third party property owners under Subsection (1), it
811 shall mail equivalent notice to property owners within an adjacent jurisdiction.

812 Section 14. Section **10-9a-207** is enacted to read:

813 **10-9a-207. Notice for a proposed subdivision or amendment or a multiple unit**
814 **residential, commercial, or industrial development.**

815 (1) For a proposed subdivision or an amendment to a subdivision, each municipality
816 shall provide notice of the date, time, and place of a public hearing that is:

817 (a) mailed not less than three calendar days before the public hearing and addressed to
818 the record owner of each parcel within specified parameters of that property; or

819 (b) posted not less than three calendar days before the public hearing, on the property
820 proposed for subdivision, in a visible location, with a sign of sufficient size, durability, and
821 print quality that is reasonably calculated to give notice to passers-by.

822 (2) Each municipality shall mail notice to each affected entity of a public hearing to
823 consider a preliminary plat describing a multiple-unit residential development or a commercial
824 or industrial development.

825 (3) Each municipality shall provide notice as required by Section 10-9a-208 for a
826 subdivision that involves a vacation, alteration, or amendment of a street.

827 Section 15. Section **10-9a-208** is enacted to read:

828 **10-9a-208. Hearing and notice for proposal to vacate, alter, or amend a plat.**

829 For any proposal to vacate, alter, or amend a platted street, the land use authority shall
830 hold a public hearing and shall give notice of the date, place, and time of the hearing by:

831 (1) mailing notice as required in Section 10-9a-207;

863 ~~[10-9-204].~~ **10-9a-302. Planning commission powers and duties.**

864 The planning commission shall~~[-(1) prepare and recommend]~~ make a recommendation
865 to the legislative body for:

866 (1) a general plan and amendments to the general plan ~~[to the legislative body as~~
867 ~~provided in this chapter];~~

868 ~~[(2) recommend zoning ordinances and maps, and amendments to zoning ordinances~~
869 ~~and maps, to the legislative body as provided in this chapter;]~~

870 ~~[(3) administer provisions of the zoning ordinance, where specifically provided for in~~
871 ~~the zoning ordinance adopted by the legislative body;]~~

872 ~~[(4) recommend subdivision regulations and amendments to those regulations to the~~
873 ~~legislative body as provided in this chapter;]~~

874 ~~[(5) recommend approval or denial of subdivision applications as provided in this~~
875 ~~chapter;]~~

876 ~~[(6) advise the legislative body on matters as the legislative body directs;]~~

877 ~~[(7) hear or decide any matters that the legislative body designates, including the~~
878 ~~approval or denial of, or recommendations to approve or deny, conditional use permits;]~~

879 ~~[(8) exercise any other powers:]~~

880 ~~[(a) that are necessary to enable it to perform its function; or]~~

881 ~~[(b) delegated to it by the legislative body;]~~

882 (2) land use ordinances, zoning maps, official maps, and amendments;

883 (3) an appropriate delegation of power to at least one designated land use authority to
884 hear and act on a land use application;

885 (4) an appropriate delegation of power to at least one appeal authority to hear and act
886 on an appeal from a decision of the land use authority; and

887 (5) application processes that:

888 (a) may include a designation of routine land use matters that, upon application and
889 proper notice, will receive informal streamlined review and action if the application is
890 uncontested; and

891 (b) shall protect the right of each:

892 (i) applicant and third party to require formal consideration of any application by a land
893 use authority;

894 (ii) applicant, adversely affected party, or municipal officer or employee to appeal a
895 land use authority's decision to a separate appeal authority; and

896 (iii) participant to be heard in each public hearing on a contested application.

897 Section 19. Section **10-9a-303**, which is renumbered from Section 10-9-205 is
898 renumbered and amended to read:

899 **[10-9-205]. 10-9a-303. Entrance upon land.**

900 The ~~[planning commission or its authorized agents]~~ municipality may enter upon any
901 land at reasonable times to make examinations and surveys~~[-]~~ pertinent to the:

902 (1) preparation of its general plan; or

903 (2) preparation or enforcement of its land use ordinances.

904 Section 20. Section **10-9a-304**, which is renumbered from Section 10-9-105 is
905 renumbered and amended to read:

906 **[10-9-105]. 10-9a-304. State and federal property.**

907 Unless otherwise provided by law, nothing contained in ~~[Parts 4 and 8 of]~~ this chapter
908 may be construed as giving ~~[the planning commission or the legislative body]~~ a municipality
909 jurisdiction over ~~[properties]~~ property owned by the state ~~[of Utah]~~ or the United States
910 ~~[government]~~.

911 Section 21. Section **10-9a-305**, which is renumbered from Section 10-9-106 is
912 renumbered and amended to read:

913 **[10-9-106]. 10-9a-305. Property owned by other government units -- Effect of**
914 **land use and development ordinances.**

915 (1) (a) Each county, municipality, school district, special district, and political
916 subdivision of ~~[Utah]~~ the state shall conform to ~~[the]~~ any applicable land use ~~[and development~~
917 ~~ordinances]~~ ordinance of any municipality when installing, constructing, operating, or
918 otherwise using any area, land, or building situated within that municipality ~~[only in a manner~~
919 ~~or for a purpose that conforms to that municipality's ordinances]~~.

920 (b) In addition to any other remedies provided by law, when a municipality's land use
921 ~~[and development ordinances are being]~~ ordinance is violated or about to be violated by
922 another political subdivision, that municipality may institute an injunction, mandamus,
923 abatement, or other appropriate action or proceeding to prevent, enjoin, abate, or remove the
924 improper installation, improvement, or use.

925 (2) A school district is subject to a municipality's land use [~~regulations under this~~
926 ~~chapter~~] ordinances, except that a municipality may not:

927 (a) impose requirements for landscaping, fencing, aesthetic considerations,
928 construction methods or materials, building codes, building use for educational purposes, or the
929 placement or use of temporary classroom facilities on school property;

930 (b) require a school district to participate in the cost of any roadway or sidewalk not
931 reasonably necessary for the safety of school children and not located on or contiguous to
932 school property, unless the roadway or sidewalk is required to connect an otherwise isolated
933 school site to an existing roadway;

934 (c) require a district to pay fees not authorized by this section;

935 (d) provide for inspection of school construction or assess a fee or other charges for
936 inspection, unless the school district is unable to provide for inspection by an inspector, other
937 than the project architect or contractor, who is qualified under criteria established by the state
938 superintendent;

939 (e) require a school district to pay any impact fee for an improvement project that is
940 not reasonably related to the impact of the project upon the need that the improvement is to
941 address; or

942 (f) impose regulations upon the location of a project except as necessary to avoid
943 unreasonable risks to health or safety.

944 (3) Subject to Section 53A-20-108, a school district shall coordinate the siting of a new
945 school with the municipality in which the school is to be located, to avoid or mitigate existing
946 and potential traffic hazards to maximize school safety.

947 Section 22. Section **10-9a-401**, which is renumbered from Section 10-9-301 is
948 renumbered and amended to read:

949 **Part 4. General Plan**

950 ~~[10-9-301].~~ **10-9a-401. General plan required -- Content.**

951 (1) In order to accomplish the purposes [~~set forth in~~] of this chapter, each municipality
952 shall prepare and adopt a comprehensive, long-range general plan for:

953 (a) present and future needs of the municipality; and

954 (b) growth and development of all or any part of the land within the municipality [~~or~~
955 ~~any part of the municipality~~].

- 956 (2) The plan may provide for:
- 957 (a) health, general welfare, safety, energy conservation, transportation, prosperity, civic
958 activities, aesthetics, and recreational, educational, and cultural opportunities;
- 959 (b) the reduction of the waste of physical, financial, or human resources that result
960 from either excessive congestion or excessive scattering of population;
- 961 (c) the efficient and economical use, conservation, and production of the supply of:
- 962 (i) food and water; and
- 963 (ii) drainage, sanitary, and other facilities and resources;
- 964 (d) the use of energy conservation and solar and renewable energy resources;
- 965 (e) the protection of urban development;
- 966 (f) the protection or promotion of moderate income housing;
- 967 [~~(f)~~] (g) the protection and promotion of air quality;
- 968 [~~(g)~~] (h) historic preservation;
- 969 [~~(h)~~] (i) identifying future uses of land that are likely to require an expansion or
970 significant modification of services or facilities provided by [~~affected entities and specified~~
971 ~~public utilities, as those terms are defined in Section 10-9-301.5]~~ each affected entity; and
- 972 [~~(i)~~] (j) an official map[, pursuant to Title 72, Chapter 5, Part 4, Transportation
973 ~~Corridor Preservation].~~
- 974 (3) [~~The~~] Subject to Subsection 10-9a-403(2), the municipality may determine the
975 comprehensiveness, extent, and format of the general plan.
- 976 Section 23. Section **10-9a-402**, which is renumbered from Section 10-9-203 is
977 renumbered and amended to read:
- 978 **[~~10-9-203~~]. 10-9a-402. Information and technical assistance from the state.**
- 979 [~~(1) The planning commission may obtain access to and use any data and information~~
980 ~~held by the state or any of its agencies:]~~
- 981 [~~(a) that is classified "public"; and]~~
- 982 [~~(b) that is classified "protected" if the planning commission's use of the data is~~
983 ~~lawfully authorized or if the data will be used for a purpose similar to the purpose for which it~~
984 ~~was gathered.]~~
- 985 [~~(2)~~] Each state official, department, and agency shall:
- 986 [~~(a) make~~] (1) promptly deliver any data and information requested by [~~the planning~~

987 ~~commissions available if authorized under the requirements of this section]~~ a municipality
 988 unless the disclosure is prohibited by Title 63, Chapter 2, Government Records Access and
 989 Management Act; and

990 ~~[(b)]~~ ~~(2)~~ furnish any other technical assistance and advice that they have available to
 991 ~~[planning commissions]~~ the municipality without additional cost to the municipality.

992 Section 24. Section ~~10-9a-403~~, which is renumbered from Section 10-9-302 is
 993 renumbered and amended to read:

994 ~~[10-9-302].~~ **10-9a-403. Plan preparation.**

995 ~~[(1)(a) Subject to Section 10-9-301.5, the]~~

996 (1) (a) The planning commission shall provide notice, as provided in Section
 997 10-9a-203, of its intent to make a recommendation to the municipal legislative body for a
 998 general plan or a comprehensive general plan amendment when the planning commission
 999 initiates the process of preparing its recommendation.

1000 (b) The planning commission shall make and recommend to the legislative body a
 1001 proposed general plan for the area within the municipality.

1002 ~~[(b)]~~ ~~(c)~~ The plan may include areas outside the boundaries of the municipality if, in
 1003 the planning commission's judgment, ~~[they]~~ those areas are related to the planning of the
 1004 municipality's territory.

1005 ~~[(c)]~~ ~~(d)~~ Except as otherwise provided by law or with respect to a municipality's power
 1006 of eminent domain, when the plan of a municipality involves territory outside the boundaries of
 1007 the municipality, the municipality may not take action affecting that territory without the
 1008 concurrence of the county or other municipalities affected.

1009 (2) ~~[The]~~ ~~(a)~~ At a minimum, the proposed general plan, with the accompanying maps,
 1010 ~~[plats,]~~ charts, and descriptive and explanatory matter, shall ~~[show]~~ include the planning
 1011 commission's recommendations for the ~~[development of the territory covered by the plan, and~~
 1012 ~~may include, among other things]~~ following plan elements:

1013 ~~[(a)]~~ ~~(i)~~ a land use element that:

1014 ~~[(i)]~~ ~~(A)~~ designates the long-term goals and the proposed extent, general distribution,
 1015 and location ~~[and extent of uses]~~ of land for housing, business, industry, agriculture, recreation,
 1016 education, public buildings and grounds, open space, and other categories of public and private
 1017 uses of land as appropriate; and

1018 [~~(i)~~] (B) may include a statement of the projections for and standards of population
1019 density and building intensity recommended for the various land use categories covered by the
1020 plan;

1021 [~~(b)~~] (ii) a transportation and traffic circulation element consisting of the general
1022 location and extent of existing and proposed freeways, arterial and collector streets, mass
1023 transit, and any other modes of transportation that [~~are~~] the planning commission considers
1024 appropriate, all correlated with the population projections and the proposed land use element of
1025 the general plan; and

1026 (iii) for cities, an estimate of the need for the development of additional moderate
1027 income housing within the city, and a plan to provide a realistic opportunity to meet estimated
1028 needs for additional moderate income housing if long-term projections for land use and
1029 development occur.

1030 (b) In drafting the moderate income housing element, the planning commission:

1031 (i) shall consider the Legislature's determination that cities should facilitate a
1032 reasonable opportunity for a variety of housing, including moderate income housing:

1033 (A) to meet the needs of people desiring to live there; and

1034 (B) to allow persons with moderate incomes to benefit from and fully participate in all
1035 aspects of neighborhood and community life; and

1036 (ii) may include an analysis of why the recommended means, techniques, or
1037 combination of means and techniques provide a realistic opportunity for the development of
1038 moderate income housing within the planning horizon, which means or techniques may include
1039 a recommendation to:

1040 (A) rezone for densities necessary to assure the production of moderate income
1041 housing;

1042 (B) facilitate the rehabilitation or expansion of infrastructure that will encourage the
1043 construction of moderate income housing;

1044 (C) encourage the rehabilitation of existing uninhabitable housing stock into moderate
1045 income housing;

1046 (D) consider general fund subsidies to waive construction related fees that are
1047 otherwise generally imposed by the city;

1048 (E) consider utilization of state or federal funds or tax incentives to promote the

1049 construction of moderate income housing;

1050 (F) consider utilization of programs offered by the Utah Housing Corporation within
 1051 that agency's funding capacity; and

1052 (G) consider utilization of affordable housing programs administered by the
 1053 Department of Community and Economic Development.

1054 (3) The proposed general plan may include:

1055 ~~[(e)]~~ (a) an environmental element that addresses:

1056 (i) the protection, conservation, development, and use of natural resources, including
 1057 the quality of air, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals,
 1058 and other natural resources; and

1059 (ii) the reclamation of land, flood control, prevention and control of the pollution of
 1060 streams and other waters, regulation of the use of land on hillsides, stream channels and other
 1061 environmentally sensitive areas, the prevention, control, and correction of the erosion of soils,
 1062 protection of watersheds and wetlands, and the mapping of known geologic hazards;

1063 ~~[(d)]~~ (b) a public services and facilities element showing general plans for sewage,
 1064 water, waste disposal, drainage, ~~[local]~~ public utilities, rights-of-way, easements, and facilities
 1065 for them, police and fire protection, and other public services;

1066 ~~[(e)]~~ (c) a rehabilitation, redevelopment, and conservation element consisting of plans
 1067 and programs for:

1068 (i) historic preservation; and

1069 (ii) the diminution or elimination of blight; and ~~[for]~~

1070 (iii) redevelopment of land, including housing sites, business and industrial sites, and
 1071 public building sites;

1072 ~~[(f)]~~ (d) an economic element composed of appropriate studies and forecasts, as well as
 1073 an economic development plan ~~[that], which~~ may include review of existing and projected
 1074 municipal revenue and expenditures, revenue sources, identification of ~~[base]~~ basic and
 1075 ~~[residential]~~ secondary industry, primary and secondary market areas, employment, and retail
 1076 sales activity;

1077 ~~[(g)]~~ (e) recommendations for implementing ~~[the]~~ all or any portion of the general plan,
 1078 including the use of ~~[zoning]~~ land use ordinances, ~~[subdivision ordinances,]~~ capital
 1079 improvement plans, ~~[and]~~ community development and promotion, and any other appropriate

1080 ~~[actions]~~ action;

1081 ~~[(h)]~~ (f) provisions addressing any of the matters listed in Subsection ~~[10-9-301]~~

1082 10-9a-401(2); and

1083 ~~[(i)]~~ (g) any other ~~[elements]~~ element the municipality considers appropriate.

1084 Section 25. Section **10-9a-404**, which is renumbered from Section 10-9-303 is
1085 renumbered and amended to read:

1086 ~~[10-9-303]~~. **10-9a-404. Public hearing by planning commission on proposed**
1087 **general plan or amendment -- Notice -- Revisions to general plan or amendment --**
1088 **Adoption or rejection by legislative body.**

1089 (1) (a) After completing its recommendation for a proposed general plan ~~[for all or part~~
1090 ~~of the area within the municipality]~~, or proposal to amend the general plan, the planning
1091 commission shall schedule and hold a public hearing on the proposed plan or amendment.

1092 (b) The planning commission shall provide ~~[reasonable]~~ notice of the public hearing ~~[at~~
1093 ~~least 14 days before the date of the hearing]~~, as required by Section 10-9a-204.

1094 (c) After the public hearing, the planning commission may ~~[make changes to]~~ modify
1095 the proposed general plan or amendment.

1096 (2) The planning commission shall ~~[then]~~ forward the proposed general plan or
1097 amendment to the legislative body.

1098 ~~[(3) (a) The legislative body shall hold a public hearing on the proposed general plan~~
1099 ~~recommended to it by the planning commission.]~~

1100 ~~[(b) The legislative body shall provide reasonable notice of the public hearing at least~~
1101 ~~14 days before the date of the hearing.]~~

1102 ~~[(4) After the public hearing, the]~~

1103 (3) The legislative body may make any ~~[modifications]~~ revisions to the proposed
1104 general plan or amendment that it considers appropriate.

1105 ~~[(5)]~~ (4) (a) The municipal legislative body may ~~[:(a)]~~ adopt or reject the proposed
1106 general plan ~~[without]~~ or amendment ~~[:(b) amend the]~~ either as proposed ~~[general plan and~~
1107 ~~adopt or reject it as amended; or (c) reject]~~ by the planning commission or after making any
1108 revision that the municipal legislative body considers appropriate.

1109 (b) If the municipal legislative body rejects the proposed general plan or amendment, it
1110 may provide suggestions to the planning commission for its consideration.

1111 ~~[(6) (a) The general plan is an advisory guide for land use decisions:]~~
 1112 ~~[(b) The legislative body may adopt an ordinance mandating compliance with the~~
 1113 ~~general plan.]~~

1114 (5) The legislative body shall adopt:

1115 (a) a land use element as provided in Subsection 10-9a-403(2)(a)(i);

1116 (b) a transportation and traffic circulation element as provided in Subsection
 1117 10-9a-403(2)(a)(ii); and

1118 (c) for all cities, after considering the factors included in Subsection
 1119 10-9a-403(2)(b)(ii), a plan to provide a realistic opportunity to meet estimated needs for
 1120 additional moderate income housing if long-term projections for land use and development
 1121 occur.

1122 Section 26. Section **10-9a-405** is enacted to read:

1123 **10-9a-405. Effect of general plan.**

1124 Except as provided in Section 10-9a-406, the general plan is an advisory guide for land
 1125 use decisions, the impact of which shall be determined by ordinance.

1126 Section 27. Section **10-9a-406**, which is renumbered from Section 10-9-305 is
 1127 renumbered and amended to read:

1128 ~~[**10-9-305**].~~ **10-9a-406. Public uses to conform to general plan.**

1129 After the legislative body has adopted a general plan ~~[or any amendments to the general~~
 1130 ~~plan]~~, no street, park, or other public way, ground, place, or space, no publicly owned building
 1131 or structure, and no public utility, whether publicly or privately owned, may be constructed or
 1132 authorized until and unless~~[-(†)]~~ it conforms to the current general plan~~[-or]~~.

1133 ~~[(2) it has been considered by the planning commission and, after receiving the advice~~
 1134 ~~of the planning commission, the legislative body approves it as an amendment to the general~~
 1135 ~~plan.]~~

1136 Section 28. Section **10-9a-407**, which is renumbered from Section 10-9-306 is
 1137 renumbered and amended to read:

1138 ~~[**10-9-306**].~~ **10-9a-407. Effect of official maps.**

1139 (1) Municipalities may adopt an official map ~~[in accordance with the provisions of~~
 1140 ~~Title 72, Chapter 5, Part 4, Transportation Corridor Preservation].~~

1141 (2) (a) An official map does not:

1142 (i) require a landowner to dedicate and construct a street as a condition of development
1143 approval, except under circumstances provided in Subsection (2)(b)(iii); or

1144 (ii) require a municipality to immediately acquire property it has designated for
1145 eventual use as a public street.

1146 (b) This section does not prohibit a municipality from:

1147 (i) ~~[requiring a landowner to take into account]~~ recommending that an applicant
1148 consider and accommodate the location of the proposed streets in the planning of a
1149 development proposal in a manner that is consistent with Section 10-9a-508;

1150 (ii) acquiring the property through purchase, gift, voluntary dedication, or eminent
1151 domain; or

1152 (iii) requiring the dedication and improvement of a street if the street is found
1153 necessary by the municipality because of a proposed development and if the dedication and
1154 improvement are consistent with Section 10-9a-508.

1155 ~~[(3) An official map may not be used to unconstitutionally prohibit the development of~~
1156 ~~property designated for eventual use as a public street.]~~

1157 ~~[(4) An adopted official map shall be available for public inspection upon request.]~~

1158 Section 29. Section **10-9a-408**, which is renumbered from Section 10-9-307 is
1159 renumbered and amended to read:

1160 ~~[10-9-307].~~ **10-9a-408. Biennial review of moderate income housing element of**
1161 **general plan.**

1162 ~~[(1) The availability of moderate income housing is an issue of statewide concern. To~~
1163 ~~this end:]~~

1164 ~~[(a) cities should afford a reasonable opportunity for a variety of housing, including~~
1165 ~~moderate income housing, to meet the needs of people desiring to live there; and]~~

1166 ~~[(b) moderate income housing should be encouraged to allow persons with moderate~~
1167 ~~incomes to benefit from and to fully participate in all aspects of neighborhood and community~~
1168 ~~life:]~~

1169 ~~[(2) As used in this section:]~~

1170 ~~[(a) "Moderate income housing" means housing occupied or reserved for occupancy by~~
1171 ~~households with a gross household income equal to or less than 80% of the median gross~~
1172 ~~income for households of the same size in the county in which the city is located.]~~

1173 ~~[(b) "Plan for moderate income housing" or "plan" means a written document adopted~~
1174 ~~by a city legislative body that includes:]~~

1175 ~~[(i) an estimate of the existing supply of moderate income housing located within the~~
1176 ~~city;]~~

1177 ~~[(ii) an estimate of the need for moderate income housing in the city for the next five~~
1178 ~~years as revised biennially;]~~

1179 ~~[(iii) a survey of total residential zoning;]~~

1180 ~~[(iv) an evaluation of how existing zoning densities affect opportunities for moderate~~
1181 ~~income housing; and]~~

1182 ~~[(v) a description of the city's program to encourage an adequate supply of moderate~~
1183 ~~income housing;]~~

1184 ~~[(3) The legislative body of each city shall, as part of its general plan, adopt a plan for~~
1185 ~~moderate income housing within that city.]~~

1186 ~~[(4) A plan may provide moderate income housing by any means or combination of~~
1187 ~~techniques which provide a realistic opportunity to meet estimated needs. The plan may include~~
1188 ~~an analysis of why the means or techniques selected provide a realistic opportunity to meet the~~
1189 ~~objectives of this section. Such techniques may include:]~~

1190 ~~[(a) rezoning for densities necessary to assure the economic viability of inclusionary-~~
1191 ~~developments, either through mandatory set asides or density bonuses;]~~

1192 ~~[(b) infrastructure expansion and rehabilitation that will facilitate the construction of~~
1193 ~~moderate income housing;]~~

1194 ~~[(c) rehabilitation of existing uninhabitable housing stock;]~~

1195 ~~[(d) consideration of waiving construction related fees generally imposed by the city;]~~

1196 ~~[(e) utilization of state or federal funds or tax incentives to promote the construction of~~
1197 ~~moderate income housing;]~~

1198 ~~[(f) utilization of programs offered by the Utah Housing Corporation within that~~
1199 ~~agency's funding capacity; and]~~

1200 ~~[(g) utilization of affordable housing programs administered by the Department of~~
1201 ~~Community and Economic Development.]~~

1202 ~~[(5) (a) After adoption of a plan for moderate income housing under Subsection (3);~~
1203 ~~the]~~

1204 (1) The legislative body of each city shall biennially:
1205 [(i)] (a) review the moderate income housing plan element of its general plan and its
1206 implementation; and

1207 [(ii)] (b) prepare a report setting forth the findings of the review.

1208 [(b)] (2) Each report under Subsection [(5)(a)(i)] (1) shall include a description of:

1209 [(i)] (a) efforts made by the city to reduce, mitigate, or eliminate local regulatory
1210 barriers to moderate income housing;

1211 [(ii)] (b) actions taken by the city to encourage preservation of existing moderate
1212 income housing and development of new moderate income housing;

1213 [(iii)] (c) progress made within the city to provide moderate income housing, as
1214 measured by permits issued for new units of moderate income housing; and

1215 [(iv)] (d) efforts made by the city to coordinate moderate income housing plans and
1216 actions with neighboring municipalities.

1217 [(c)] (3) The legislative body of each city shall send a copy of the report under
1218 Subsection [(5)(a)(i)] (1) to the Department of Community and Economic Development and
1219 the association of governments in which the city is located.

1220 [(6)] (4) In a civil action seeking enforcement or claiming a violation of this section or
1221 of Subsection 10-9a-404(5)(c), a plaintiff may not recover damages but may be awarded only
1222 injunctive or other equitable relief ~~[only]~~.

1223 Section 30. Section **10-9a-501**, which is renumbered from Section 10-9-401 is
1224 renumbered and amended to read:

Part 5. Land Use Ordinances

~~[10-9-401].~~ 10-9a-501. General powers.

1227 The legislative body may enact ~~[a zoning ordinance establishing regulations for land~~
1228 ~~use and development that furthers the intent of this chapter]~~ land use ordinances and a zoning
1229 map.

1230 Section 31. Section **10-9a-502**, which is renumbered from Section 10-9-402 is
1231 renumbered and amended to read:

~~[10-9-402].~~ 10-9a-502. Preparation and adoption.

1233 (1) The planning commission shall:

1234 (a) provide notice as required by Subsection 10-9a-205(1)(a);

1235 (b) hold a public hearing on a proposed land use ordinance or zoning map; and
 1236 (c) prepare and recommend to the legislative body [a proposed zoning ordinance,
 1237 including both the full text of the zoning ordinance and maps, that represents the commission's
 1238 recommendations for zoning all or any part of the area within] a proposed land use ordinance
 1239 or ordinances and zoning map that represent the planning commission's recommendation for
 1240 regulating the use and development of land within all or any part of the area of the
 1241 municipality.

1242 (2) ~~[(a)]~~ The municipal legislative body shall ~~[hold a public hearing on the]~~ consider
 1243 each proposed ~~[zoning]~~ land use ordinance and zoning map recommended to it by the planning
 1244 commission~~[(b) The legislative body shall provide reasonable notice of the public hearing at~~
 1245 ~~least 14 days before the date of the hearing. If a municipality mails notice of a proposed zoning~~
 1246 ~~change to property owners within that municipality within a specified distance of the property~~
 1247 ~~on which the zoning change is being proposed, it shall also mail equivalent notice to property~~
 1248 ~~owners of an adjacent municipality within the same distance of the property on which the~~
 1249 ~~zoning change is being proposed. (3) After the public hearing, the legislative body may: (a)],~~
 1250 and, after providing notice as required by Subsection 10-9a-205(1)(b) and holding a public
 1251 meeting, the legislative body may adopt or reject the [zoning] ordinance or map either as
 1252 proposed[; (b) amend the zoning ordinance and adopt or reject the zoning ordinance as
 1253 amended; or (c) reject the ordinance] by the planning commission or after making any revision
 1254 the municipal legislative body considers appropriate.

1255 Section 32. Section **10-9a-503**, which is renumbered from Section 10-9-403 is
 1256 renumbered and amended to read:

1257 ~~[10-9-403].~~ **10-9a-503. Amendments.**

1258 (1) ~~[(a)]~~ The legislative body may amend:

1259 ~~[(i)]~~ (a) the number, shape, boundaries, or area of any zoning district;

1260 ~~[(ii)]~~ (b) any regulation of or within the zoning district; or

1261 ~~[(iii)]~~ (c) any other provision of ~~[the zoning]~~ a land use ordinance.

1262 ~~[(b)]~~ (2) The legislative body may not make any amendment authorized by this
 1263 subsection unless the amendment was proposed by the planning commission or ~~[is]~~ was first
 1264 submitted to the planning commission for its ~~[approval, disapproval, or recommendations]~~
 1265 recommendation.

1266 ~~[(2)]~~ (3) The legislative body shall comply with the procedure specified in Section
1267 ~~[10-9-402]~~ 10-9a-502 in preparing and adopting an amendment to ~~[the zoning]~~ a land use
1268 ordinance or ~~[the]~~ a zoning map.

1269 Section 33. Section **10-9a-504**, which is renumbered from Section 10-9-404 is
1270 renumbered and amended to read:

1271 ~~[10-9-404].~~ **10-9a-504. Temporary land use regulations.**

1272 (1) (a) A municipal legislative body may, without ~~[a public hearing,]~~ prior
1273 consideration of or recommendation from the planning commission, enact an ordinance
1274 establishing a temporary ~~[zoning]~~ land use regulation for any part or all of the area within the
1275 municipality if:

1276 (i) the legislative body makes a finding of compelling, countervailing public interest;
1277 or

1278 (ii) the area is ~~[unzoned]~~ unregulated.

1279 (b) A temporary ~~[zoning]~~ land use regulation under Subsection (1)(a) may prohibit or
1280 regulate the erection, construction, reconstruction, or alteration of any building or structure or
1281 any subdivision approval.

1282 (c) A temporary ~~[zoning]~~ land use regulation under Subsection (1)(a) may not impose
1283 an impact fee or other financial requirement on building or development.

1284 (2) The municipal legislative body shall establish a period of limited effect for the
1285 ordinance not to exceed six months.

1286 (3) (a) A municipal legislative body may, without ~~[a public hearing]~~ prior planning
1287 commission consideration or recommendation, enact an ordinance establishing a temporary
1288 ~~[zoning]~~ land use regulation prohibiting construction, subdivision approval, and other
1289 development activities within an area that is the subject of an Environmental Impact Statement
1290 or a Major Investment Study examining the area as a proposed highway or transportation
1291 corridor.

1292 (b) A ~~[zoning]~~ regulation under Subsection (3)(a):

1293 (i) may not exceed six months in duration;

1294 (ii) may be renewed, if requested by the ~~[Utah]~~ Transportation Commission created
1295 under Section 72-1-301, for up to two additional six-month periods by ordinance enacted
1296 before the expiration of the previous ~~[zoning]~~ regulation; and

1297 (iii) notwithstanding Subsections (3)(b)(i) and (ii), is effective only as long as the
1298 Environmental Impact Statement or Major Investment Study is in progress.

1299 Section 34. Section **10-9a-505**, which is renumbered from Section 10-9-405 is
1300 renumbered and amended to read:

1301 ~~[10-9-405].~~ **10-9a-505. Zoning districts.**

1302 (1) (a) The legislative body may divide the territory over which it has jurisdiction into
1303 zoning districts of a number, shape, and area that it considers appropriate to carry out the
1304 purposes of this chapter.

1305 (b) Within those zoning districts, the legislative body may regulate and restrict the
1306 erection, construction, reconstruction, alteration, repair, or use of buildings and structures, and
1307 the use of land.

1308 (2) The legislative body shall ensure that the regulations are uniform for each class or
1309 kind of buildings throughout each zoning district, but the regulations in one ~~[district]~~ zone may
1310 differ from those in other ~~[districts]~~ zones.

1311 (3) (a) There is no minimum area or diversity of ownership requirement for a zone
1312 designation.

1313 (b) Neither the size of a zoning district nor the number of landowners within the
1314 district may be used as evidence of the illegality of a zoning district or of the invalidity of a
1315 municipal decision.

1316 Section 35. Section **10-9a-506**, which is renumbered from Section 10-9-406 is
1317 renumbered and amended to read:

1318 ~~[10-9-406].~~ **10-9a-506. Regulating annexed territory.**

1319 (1) The legislative body of ~~[a]~~ each municipality ~~[may]~~ shall assign a ~~[zoning~~
1320 ~~designation]~~ land use zone or a variety thereof to territory annexed to the municipality at the
1321 time the territory is annexed.

1322 ~~[(2) If the annexing municipality's zoning ordinance does not designate a zone for the~~
1323 ~~territory to be annexed to the municipality, or if the legislative body does not assign a zone to~~
1324 ~~territory at the time it is annexed, the territory annexed to a municipality shall be zoned~~
1325 ~~according to the zone of the annexing municipality with which it has the longest common~~
1326 ~~boundary.]~~

1327 (2) If the legislative body fails to assign a land use zone at the time the territory is

1328 annexed, all land uses within the annexed territory shall be compatible with surrounding uses
1329 within the municipality.

1330 ' Section 36. Section **10-9a-507**, which is renumbered from Section 10-9-407 is
1331 renumbered and amended to read:

1332 ~~[10-9-407].~~ **10-9a-507. Conditional uses.**

1333 (1) A [~~zoning~~] land use ordinance may [contain] include conditional uses and
1334 provisions for conditional uses that [may be allowed, allowed with conditions, or denied in
1335 designated zoning districts, based on] require compliance with standards [and criteria] set forth
1336 in [the zoning] an applicable ordinance [for those uses].

1337 [~~(2) The board of adjustments has jurisdiction to decide appeals of the approval or~~
1338 ~~denial of conditional use permits unless the legislative body has enacted an ordinance~~
1339 ~~designating the legislative body or another body as the appellate body for those appeals.]~~

1340 (2) (a) A conditional use shall be approved if reasonable conditions are proposed, or
1341 can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use
1342 in accordance with applicable standards.

1343 (b) If the reasonably anticipated detrimental effects of a proposed conditional use
1344 cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to
1345 achieve compliance with applicable standards, the conditional use may be denied.

1346 Section 37. Section **10-9a-508** is enacted to read:

1347 **10-9a-508. Regulation of exactions.**

1348 A municipality may impose an exaction or exactions on development proposed in a
1349 land use application if:

1350 (1) an essential link exists between a legitimate governmental interest and each
1351 exaction; and

1352 (2) each exaction is roughly proportionate, both in nature and extent, to the impact of
1353 the proposed development.

1354 Section 38. Section **10-9a-509** is enacted to read:

1355 **10-9a-509. Land use approval standards and vested rights.**

1356 (1) (a) An applicant is entitled to approval of a land use application if the application
1357 conforms to the requirements of an applicable land use ordinance in effect when a complete
1358 application is submitted and all fees have been paid, unless:

1359 (i) the land use authority, on the record, finds that a compelling, countervailing public
1360 interest would be jeopardized by approving the application; or

1361 (ii) in the manner provided by local ordinance and before the application is submitted,
1362 the municipality has formally initiated proceedings to amend its ordinances in a manner that
1363 would prohibit approval of the application as submitted.

1364 (b) The municipality shall process an application without regard to proceedings
1365 initiated to amend the municipality's ordinances if:

1366 (i) 180 days have passed since the proceedings were initiated; and

1367 (ii) the proceedings have not resulted in an enactment that prohibits approval of the
1368 application as submitted.

1369 (c) An application for a land use approval is considered submitted and complete when
1370 the application is provided in a form that complies with the requirements of applicable
1371 ordinances and all applicable fees have been paid.

1372 (d) The continuing validity of an approval of a land use application is conditioned upon
1373 the applicant proceeding after approval to implement the approval with reasonable diligence.

1374 (2) A municipality is bound by the terms and standards of applicable land use
1375 ordinances and shall comply with mandatory provisions of those ordinances.

1376 Section 39. Section **10-9a-510**, which is renumbered from Section 10-9-107 is
1377 renumbered and amended to read:

1378 ~~[10-9-107].~~ **10-9a-510. Limit on plan check fees.**

1379 (1) A municipality may not impose or collect a fee for reviewing or approving the
1380 plans for a commercial or residential building that exceeds the lesser of:

1381 (a) the actual cost of performing the plan review; and

1382 (b) 65% of the amount the municipality charges for a building permit fee for that
1383 building.

1384 ~~[(2) (a) For purposes of this Subsection (2):]~~

1385 ~~[(i) "Identical plans" means building plans submitted to a municipality that:]~~

1386 ~~[(A) are substantially identical to building plans that were previously submitted to and~~
1387 ~~reviewed and approved by the municipality; and]~~

1388 ~~[(B) describe a building that is:]~~

1389 ~~[(F) located on land zoned the same as the land on which the building described in the~~

1390 ~~previously approved plans is located; and]~~

1391 ~~[(H) subject to the same geological and meteorological conditions and the same law as~~
1392 ~~the building described in the previously approved plans.]~~

1393 ~~[(ii) "Nominal fee" means a fee that reasonably reimburses a municipality only for time~~
1394 ~~spent and expenses incurred in:]~~

1395 ~~[(A) verifying that building plans are identical plans; and]~~

1396 ~~[(B) reviewing and approving those minor aspects of identical plans that differ from~~
1397 ~~the previously reviewed and approved building plans referred to in Subsection (2)(a)(i):]~~

1398 ~~[(b)]~~ (2) Subject to Subsection (1), a municipality may impose and collect only a
1399 nominal fee for reviewing and approving identical plans.

1400 Section 40. Section **10-9a-511**, which is renumbered from Section 10-9-408 is
1401 renumbered and amended to read:

1402 ~~[10-9-408].~~ **10-9a-511. Nonconforming uses and noncomplying structures.**

1403 (1) (a) Except as provided in this section, a nonconforming use or noncomplying
1404 structure may be continued by the present or by a future property owner.

1405 (b) A nonconforming use may be extended through the same building, provided no
1406 structural alteration of the building is proposed or made for the purpose of the extension.

1407 (c) For purposes of this Subsection (1), the addition of a solar energy device to a
1408 building is not a structural alteration.

1409 (2) The legislative body may provide ~~[in any zoning ordinance or amendment]~~ for:

1410 (a) the establishment, restoration, reconstruction, extension, alteration, expansion, or
1411 substitution of nonconforming uses upon the terms and conditions set forth in the ~~[zoning]~~ land
1412 use ordinance;

1413 (b) the termination of all nonconforming uses, except billboards, by providing a
1414 formula establishing a reasonable time period during which the owner can recover or amortize
1415 the amount of his investment in the nonconforming use, if any; and

1416 ~~[(c) the termination of a billboard that is a nonconforming use by acquiring the~~
1417 ~~billboard and associated property rights through:]~~

1418 ~~[(i) gift;]~~

1419 ~~[(ii) purchase;]~~

1420 ~~[(iii) agreement;]~~

1421 ~~[(iv) exchange; or]~~
1422 ~~[(v) eminent domain.]~~
1423 ~~[(3) (a) A municipality is considered to have initiated the acquisition of a billboard~~
1424 ~~structure by eminent domain under Subsection (2)(c)(v) if the municipality prevents a billboard~~
1425 ~~owner from:]~~
1426 ~~[(i) rebuilding, maintaining, repairing, or restoring a billboard structure that is damaged~~
1427 ~~by casualty, an act of God, or vandalism; or]~~
1428 ~~[(ii) except as provided in Subsection (3)(b), relocating or rebuilding a billboard~~
1429 ~~structure, or taking other measures, to correct a mistake in the placement or erection of a~~
1430 ~~billboard for which the municipality has issued a permit, if the proposed relocation, rebuilding,~~
1431 ~~or other measure is consistent with the intent of that permit.]~~
1432 ~~[(b) A municipality's denial of a billboard owner's request to relocate or rebuild a~~
1433 ~~billboard structure, or to take other measures, in order to correct a mistake in the placement or~~
1434 ~~erection of a billboard does not constitute the initiation of acquisition by eminent domain under~~
1435 ~~Subsection (3)(a) if the mistake in placement or erection of the billboard is determined by clear~~
1436 ~~and convincing evidence to have resulted from an intentionally false or misleading statement:]~~
1437 ~~[(i) by the billboard applicant in the application; and]~~
1438 ~~[(ii) regarding the placement or erection of the billboard.]~~
1439 ~~[(4) Notwithstanding Subsections (2) and (3), a municipality may remove a billboard~~
1440 ~~without providing compensation if:]~~
1441 ~~[(a) the municipality determines:]~~
1442 ~~[(i) by clear and convincing evidence that the applicant for a permit intentionally made~~
1443 ~~a false or misleading statement in the applicant's application regarding the placement or~~
1444 ~~erection of the billboard; or]~~
1445 ~~[(ii) by substantial evidence that the billboard:]~~
1446 ~~[(A) is structurally unsafe;]~~
1447 ~~[(B) is in an unreasonable state of repair; or]~~
1448 ~~[(C) has been abandoned for at least 12 months;]~~
1449 ~~[(b) the municipality notifies the owner in writing that the owner's billboard meets one~~
1450 ~~or more of the conditions listed in Subsections (4)(a)(i) and (ii);]~~
1451 ~~[(c) the owner fails to remedy the condition or conditions within:]~~

1452 ~~[(i) except as provided in Subsection (4)(c)(ii), 90 days following the billboard owner's~~
1453 ~~receipt of written notice under Subsection (4)(b); or]~~

1454 ~~[(ii) if the condition forming the basis of the municipality's intention to remove the~~
1455 ~~billboard is that it is structurally unsafe, ten business days, or a longer period if necessary~~
1456 ~~because of a natural disaster, following the billboard owner's receipt of written notice under~~
1457 ~~Subsection (4)(b); and]~~

1458 ~~[(d) following the expiration of the applicable period under Subsection (4)(c) and after~~
1459 ~~providing the owner with reasonable notice of proceedings and an opportunity for a hearing,~~
1460 ~~the municipality finds:]~~

1461 ~~[(i) by clear and convincing evidence, that the applicant for a permit intentionally made~~
1462 ~~a false or misleading statement in the application regarding the placement or erection of the~~
1463 ~~billboard; or]~~

1464 ~~[(ii) by substantial evidence that the billboard is structurally unsafe, is in an~~
1465 ~~unreasonable state of repair, or has been abandoned for at least 12 months.]~~

1466 ~~[(5) A municipality may not allow a nonconforming billboard to be rebuilt for a reason~~
1467 ~~other than:]~~

1468 ~~[(a) those specified in Subsections (3) and (4);]~~

1469 ~~[(b) those provided in Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act; and]~~

1470 ~~[(c) those specified in the municipality's ordinance requiring or allowing a billboard~~
1471 ~~owner to relocate and rebuild an existing nonconforming billboard to an area within the~~
1472 ~~municipality where outdoor advertising is otherwise allowed under Title 72, Chapter 7, Part 5,~~
1473 ~~Utah Outdoor Advertising Act.]~~

1474 ~~[(6) A municipality may terminate the nonconforming status of school district property~~
1475 ~~when the property ceases to be used for school district purposes:]~~

1476 ~~(c) the termination of a nonconforming use due to its abandonment.~~

1477 ~~(3) (a) A municipality may not prohibit the reconstruction or restoration of a~~
1478 ~~noncomplying structure or terminate the nonconforming use of a structure that is involuntarily~~
1479 ~~destroyed in whole or in part due to fire or other calamity unless the structure or use has been~~
1480 ~~abandoned.~~

1481 ~~(b) A municipality may prohibit the reconstruction or restoration of a noncomplying~~
1482 ~~structure or terminate the nonconforming use of a structure if:~~

1483 (i) the structure is allowed to deteriorate to a condition that the structure is rendered
1484 uninhabitable and is not repaired or restored within six months after written notice to the
1485 property owner that the structure is uninhabitable and that the noncomplying structure or
1486 nonconforming use will be lost if the structure is not repaired or restored within six months; or

1487 (ii) the property owner has voluntarily demolished a majority of the noncomplying
1488 structure or the building that houses the nonconforming use.

1489 (4) (a) Unless the municipality establishes, by ordinance, a uniform presumption of
1490 legal existence for nonconforming uses, the property owner shall have the burden of
1491 establishing the legal existence of a noncomplying structure or nonconforming use.

1492 (b) Any party claiming that a nonconforming use has been abandoned shall have the
1493 burden of establishing the abandonment.

1494 (c) Abandonment may be presumed to have occurred if:

1495 (i) a majority of the primary structure associated with the nonconforming use has been
1496 voluntarily demolished without prior written agreement with the municipality regarding an
1497 extension of the nonconforming use;

1498 (ii) the use has been discontinued for a minimum of one year; or

1499 (iii) the primary structure associated with the nonconforming use remains vacant for a
1500 period of one year.

1501 (d) The property owner may rebut the presumption of abandonment under Subsection
1502 (4)(c), and shall have the burden of establishing that any claimed abandonment under
1503 Subsection (4)(c) has not in fact occurred.

1504 (5) A municipality may terminate the nonconforming status of a school district or
1505 charter school use or structure when the property associated with the school district or charter
1506 school use or structure ceases to be used for school district or charter school purposes for a
1507 period established by ordinance.

1508 Section 41. Section **10-9a-512**, which is renumbered from Section 10-9-409 is
1509 renumbered and amended to read:

1510 ~~[10-9-409]~~. **10-9a-512. Existing outdoor advertising uses.**

1511 (1) A municipality may only require termination of a billboard and associated property
1512 rights through:

1513 (a) gift;

- 1514 (b) purchase;
- 1515 (c) agreement;
- 1516 (d) exchange; or
- 1517 (e) eminent domain.

1518 (2) A termination under Subsection (1)(a), (b), (c), or (d) requires the voluntary consent
1519 of the billboard owner.

1520 Section 42. Section **10-9a-513** is enacted to read:

1521 **10-9a-513. Nonconforming billboards.**

1522 (1) (a) A municipality is considered to have initiated the acquisition of a billboard
1523 structure by eminent domain if the municipality prevents a billboard owner from:

1524 (i) rebuilding, maintaining, repairing, or restoring a billboard structure that is damaged
1525 by casualty, an act of God, or vandalism; or

1526 (ii) except as provided in Subsection (1)(b), relocating or rebuilding a billboard
1527 structure, or taking other measures, to correct a mistake in the placement or erection of a
1528 billboard for which the municipality has issued a permit, if the proposed relocation, rebuilding,
1529 or other measure is consistent with the intent of that permit.

1530 (b) A municipality's denial of a billboard owner's request to relocate or rebuild a
1531 billboard structure, or to take other measures, in order to correct a mistake in the placement or
1532 erection of a billboard does not constitute the initiation of acquisition by eminent domain under
1533 Subsection (1)(a) if the mistake in placement or erection of the billboard is determined by clear
1534 and convincing evidence to have resulted from an intentionally false or misleading statement:

1535 (i) by the billboard applicant in the application; and

1536 (ii) regarding the placement or erection of the billboard.

1537 (2) Notwithstanding Subsection (1) and Section 10-9a-512, a municipality may remove
1538 a billboard without providing compensation if:

1539 (a) the municipality determines:

1540 (i) by clear and convincing evidence that the applicant for a permit intentionally made a
1541 false or misleading statement in the applicant's application regarding the placement or erection
1542 of the billboard; or

1543 (ii) by substantial evidence that the billboard:

1544 (A) is structurally unsafe;

- 1545 (B) is in an unreasonable state of repair; or
1546 (C) has been abandoned for at least 12 months;
1547 (b) the municipality notifies the owner in writing that the owner's billboard meets one
1548 or more of the conditions listed in Subsections (2)(a)(i) and (ii);
1549 (c) the owner fails to remedy the condition or conditions within:
1550 (i) except as provided in Subsection (2)(c)(ii), 90 days following the billboard owner's
1551 receipt of written notice under Subsection (2)(b); or
1552 (ii) if the condition forming the basis of the municipality's intention to remove the
1553 billboard is that it is structurally unsafe, ten business days, or a longer period if necessary
1554 because of a natural disaster, following the billboard owner's receipt of written notice under
1555 Subsection (2)(b); and
1556 (d) following the expiration of the applicable period under Subsection (2)(c) and after
1557 providing the owner with reasonable notice of proceedings and an opportunity for a hearing,
1558 the municipality finds:
1559 (i) by clear and convincing evidence, that the applicant for a permit intentionally made
1560 a false or misleading statement in the application regarding the placement or erection of the
1561 billboard; or
1562 (ii) by substantial evidence that the billboard is structurally unsafe, is in an
1563 unreasonable state of repair, or has been abandoned for at least 12 months.
1564 (3) A municipality may not allow a nonconforming billboard to be rebuilt for a reason
1565 other than:
1566 (a) those specified in Subsections (1) and (2);
1567 (b) those provided in Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act; and
1568 (c) those specified in the municipality's ordinance requiring or allowing a billboard
1569 owner to relocate and rebuild an existing nonconforming billboard to an area within the
1570 municipality where outdoor advertising is otherwise allowed under Title 72, Chapter 7, Part 5,
1571 Utah Outdoor Advertising Act.
1572 Section 43. Section **10-9a-514**, which is renumbered from Section 10-9-106.5 is
1573 renumbered and amended to read:
1574 **[10-9-106.5]. 10-9a-514. Manufactured homes.**
1575 (1) For purposes of this section, a manufactured home is the same as defined in Section

1576 58-56-3, except that the manufactured home must be attached to a permanent foundation in
1577 accordance with plans providing for vertical loads, uplift, and lateral forces and frost protection
1578 in compliance with the applicable building code. All appendages, including carports, garages,
1579 storage buildings, additions, or alterations must be built in compliance with the applicable
1580 building code.

1581 (2) A manufactured home may not be excluded from any land use zone or area in
1582 which a single-family residence would be permitted, provided the manufactured home
1583 complies with all local [~~zoning, building code, and subdivision requirements, including~~] land
1584 use ordinances, building codes, and any restrictive covenants, applicable to a single family
1585 residence within that zone or area.

1586 (3) A municipality may not:

1587 (a) adopt or enforce an ordinance or regulation that treats a proposed development that
1588 includes manufactured homes differently than one that does not include manufactured homes;
1589 or

1590 (b) reject a development plan based on the fact that the development is expected to
1591 contain manufactured homes.

1592 Section 44. Section **10-9a-515**, which is renumbered from Section 10-9-108 is
1593 renumbered and amended to read:

1594 **~~[10-9-108]. 10-9a-515. Regulation of amateur radio antennas.~~**

1595 (1) A municipality may not enact or enforce an ordinance that does not comply with
1596 the ruling of the Federal Communications Commission in "Amateur Radio Preemption, 101
1597 FCC 2nd 952 (1985)" or a regulation related to amateur radio service adopted under 47 C.F.R.
1598 Part 97.

1599 (2) If a municipality adopts an ordinance involving the placement, screening, or height
1600 of an amateur radio antenna based on health, safety, or aesthetic conditions, the ordinance
1601 shall:

1602 (a) reasonably accommodate amateur radio communications; and

1603 (b) represent the minimal practicable regulation to accomplish the municipality's
1604 purpose.

1605 Section 45. Section **10-9a-516**, which is renumbered from Section 10-9-501 is
1606 renumbered and amended to read:

1607 ~~[10-9-501]~~. **10-9a-516. Residential facilities for elderly persons.**

1608 (1) ~~[(a)]~~ A residential facility for elderly persons may not operate as a business.

1609 ~~[(b)]~~ (2) A residential facility for elderly persons shall:

1610 ~~[(i)]~~ (a) be owned by one of the residents or by an immediate family member of one of
1611 the residents or be a facility for which the title has been placed in trust for a resident;

1612 ~~[(ii)]~~ (b) be consistent with ~~[existing zoning of]~~ any existing, applicable land use
1613 ordinance affecting the desired location; and

1614 ~~[(iii)]~~ (c) be occupied on a 24-hour-per-day basis by eight or fewer elderly persons in a
1615 family-type arrangement.

1616 ~~[(2)]~~ (3) A residential facility for elderly persons may not be considered a business
1617 because a fee is charged for food or for actual and necessary costs of operation and
1618 maintenance of the facility.

1619 Section 46. Section **10-9a-517**, which is renumbered from Section 10-9-502 is
1620 renumbered and amended to read:

1621 ~~[10-9-502]~~. **10-9a-517. Municipal ordinances governing elderly residential**
1622 **facilities.**

1623 (1) Each municipality shall adopt ordinances that establish that a residential facility for
1624 elderly persons is a permitted use in any area where residential dwellings are allowed, except
1625 an area zoned to permit exclusively single-family dwellings.

1626 (2) The ordinances shall establish a permit process that may require only that:

1627 (a) the facility meet ~~[all applicable]~~ each building, safety, ~~[zoning]~~ land use, and health
1628 ~~[ordinances]~~ ordinance applicable to similar dwellings;

1629 (b) adequate off-street parking space be provided;

1630 (c) the facility be capable of use as a residential facility for elderly persons without
1631 structural or landscaping alterations that would change the structure's residential character;

1632 (d) residential facilities for elderly persons be reasonably dispersed throughout the
1633 municipality;

1634 (e) no person being treated for alcoholism or drug abuse be placed in a residential
1635 facility for elderly persons; and

1636 (f) placement in a residential facility for elderly persons be on a strictly voluntary basis
1637 and not a part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional

1638 facility.

1639 Section 47. Section **10-9a-518**, which is renumbered from Section 10-9-503 is
1640 renumbered and amended to read:

1641 ~~[10-9-503].~~ **10-9a-518. Municipal approval of elderly residential facilities.**

1642 (1) ~~[(a)]~~ Upon application for a permit to establish a residential facility for elderly
1643 persons in any area where residential dwellings are allowed, except an area zoned to permit
1644 exclusively single-family dwellings, the municipality ~~[may decide only whether or not the~~
1645 ~~residential facility for elderly persons conforms to ordinances adopted by the municipality~~
1646 ~~under this part. (b) If the municipality determines that the residential facility for elderly~~
1647 ~~persons complies with the ordinances, it]~~ shall grant the requested permit to ~~[that facility:]~~ the
1648 facility if the facility is proposed outside of a zone regulated exclusively for single-family
1649 homes and shall otherwise comply with Section 10-9a-519 if the facility is proposed in a land
1650 use zone regulated exclusively for single-family homes.

1651 (2) The use granted and permitted by this section is nontransferable and terminates if
1652 the structure is devoted to a use other than a residential facility for elderly persons or if the
1653 structure fails to comply with the ordinances adopted under this ~~[part]~~ section.

1654 (3) If a municipality has not adopted ordinances under this ~~[part]~~ section at the time an
1655 application for a permit to establish a residential facility for elderly persons is made, the
1656 municipality shall grant the permit if it is established that the criteria set forth in this part have
1657 been met by the facility.

1658 Section 48. Section **10-9a-519**, which is renumbered from Section 10-9-504 is
1659 renumbered and amended to read:

1660 ~~[10-9-504].~~ **10-9a-519. Elderly residential facilities in areas zoned exclusively**
1661 **for single-family dwellings.**

1662 (1) For purposes of this section:

1663 (a) no person who is being treated for alcoholism or drug abuse may be placed in a
1664 residential facility for elderly persons; and

1665 (b) placement in a residential facility for elderly persons shall be on a strictly voluntary
1666 basis and may not be a part of, or in lieu of, confinement, rehabilitation, or treatment in a
1667 correctional institution.

1668 (2) Subject to the granting of a conditional use permit, a residential facility for elderly

1669 persons shall be allowed in any [~~municipal zoning district~~] zone that is [~~zoned~~] regulated to
1670 permit exclusively single-family dwelling use, if that facility:

1671 (a) conforms to all applicable health, safety, [~~zoning~~] land use, and building codes;

1672 (b) is capable of use as a residential facility for elderly persons without structural or
1673 landscaping alterations that would change the structure's residential character; and

1674 (c) conforms to the municipality's criteria, adopted by ordinance, governing the
1675 location of residential facilities for elderly persons in areas zoned to permit exclusively
1676 single-family dwellings.

1677 (3) A municipality may, by ordinance, provide that no residential facility for elderly
1678 persons be established within three-quarters mile of another existing residential facility for
1679 elderly persons or residential facility for persons with a disability[~~, as defined by Section~~
1680 ~~10-9-605~~].

1681 (4) The use granted and permitted by this section is nontransferable and terminates if
1682 the structure is devoted to a use other than as a residential facility for elderly persons or if the
1683 structure fails to comply with applicable health, safety, and building codes.

1684 (5) (a) Municipal ordinances shall prohibit discrimination against elderly persons and
1685 against residential facilities for elderly persons.

1686 (b) The decision of a municipality regarding the application for a permit by a
1687 residential facility for elderly persons must be based on legitimate land use criteria and may not
1688 be based on the age of the facility's residents.

1689 (6) The requirements of this section that a residential facility for elderly persons obtain
1690 a conditional use permit or other permit do not apply if the facility meets the requirements of
1691 existing [~~zoning~~] land use ordinances that allow a specified number of unrelated persons to live
1692 together.

1693 Section 49. Section **10-9a-520**, which is renumbered from Section 10-9-605 is
1694 renumbered and amended to read:

1695 [~~10-9-605~~]. **10-9a-520. Residences for persons with a disability.**

1696 [~~(1) As used in this section:~~]

1697 [~~(a) "Disability" is defined in Section 57-21-2.]~~]

1698 [~~(b) "Residential facility for persons with a disability" means a residence:]~~]

1699 [~~(i) in which more than one person with a disability resides; and]~~]

1700 ~~[(ii) (A) is licensed or certified by the Department of Human Services under Title 62A,~~
1701 ~~Chapter 2, Licensure of Programs and Facilities; or]~~

1702 ~~[(B) is licensed or certified by the Department of Health under Title 26, Chapter 21,~~
1703 ~~Health Care Facility Licensing and Inspection Act.]~~

1704 ~~[(2)] (1) Each municipality shall adopt an ordinance for residential facilities for persons~~
1705 ~~with a disability.~~

1706 ~~[(3)] (2) Each ordinance under Subsection [(2)] (1) shall:~~

1707 (a) comply with Title 57, Chapter 21, Utah Fair Housing Act, and the federal Fair
1708 Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq.; and

1709 (b) to the extent required by federal law, provide that a residential facility for persons
1710 with a disability is a permitted use in any ~~[zoning area]~~ zone where similar residential
1711 dwellings that are not residential facilities for persons with a disability are allowed.

1712 ~~[(4)] (3) Subject to Subsection [(3)] (2), an ordinance under Subsection [(2)] (1) may:~~

1713 (a) require residential facilities for persons with a disability:

1714 (i) to be reasonably dispersed throughout the municipality;

1715 (ii) to be limited by number of occupants;

1716 (iii) for residential facilities for persons with a disability that are substance abuse

1717 facilities and are located within 500 feet of a school, to provide, in accordance with rules

1718 established by the Department of Human Services under Title 62A, Chapter 2, Licensure of

1719 Programs and Facilities:

1720 (A) a security plan satisfactory to local law enforcement authorities;

1721 (B) 24-hour supervision for residents; and

1722 (C) other 24-hour security measures; and

1723 (iv) to obtain permits that verify compliance with the same building, safety, and health

1724 regulations as are applicable in the same ~~[zoning area]~~ zone to similar uses that are not

1725 residential facilities for persons with a disability; and

1726 (b) provide that a residential facility for persons with a disability that would likely

1727 create a fundamental change in the character of a residential neighborhood may be excluded

1728 from a ~~[zoning area]~~ zone.

1729 ~~[(5)] (4) The responsibility to license programs or entities that operate facilities for~~

1730 persons with a disability, as well as to require and monitor the provision of adequate services to

1731 persons residing in those facilities, shall rest with:

1732 (a) for programs or entities licensed or certified by the Department of Human Services,
1733 the Department of Human Services as provided in Title 62A, Chapter 5, Services to People
1734 with Disabilities; and

1735 (b) for programs or entities licensed or certified by the Department of Health, the
1736 Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and
1737 Inspection Act.

1738 Section 50. Section **10-9a-601**, which is renumbered from Section 10-9-801 is
1739 renumbered and amended to read:

1740 **Part 6. Subdivisions**

1741 ~~[10-9-801].~~ **10-9a-601. Enactment of subdivision ordinance.**

1742 (1) The legislative body of ~~[any]~~ a municipality may enact ~~[a subdivision ordinance]~~
1743 ordinances requiring that a subdivision plat comply with the provisions of the ~~[subdivision]~~
1744 ordinance and ~~[be approved as required by]~~ this part before:

1745 ~~[(1)]~~ (a) it may be filed or recorded in the county recorder's office; and

1746 ~~[(2)]~~ (b) lots may be sold.

1747 (2) If the legislative body fails to enact a subdivision ordinance, the municipality may
1748 regulate subdivisions only to the extent provided in this part.

1749 Section 51. Section **10-9a-602**, which is renumbered from Section 10-9-802 is
1750 renumbered and amended to read:

1751 ~~[10-9-802].~~ **10-9a-602. Preparation -- Adoption and amendment.**

1752 (1) The planning commission shall:

1753 (a) prepare and recommend a proposed ~~[subdivision]~~ ordinance to the legislative body
1754 that regulates the subdivision of land ~~[in the municipality];~~

1755 ~~[(b) hold a public hearing on the proposed subdivision ordinance before making its~~
1756 ~~final recommendation to the legislative body; and]~~

1757 (b) prepare and recommend or consider and recommend a proposed ordinance that
1758 amends the regulation of the subdivision of the land in the municipality;

1759 (c) provide ~~[reasonable]~~ notice ~~[of the public hearing at least 14 days before the date of~~
1760 ~~the hearing;]~~ consistent with Section 10-9a-205; and

1761 ~~[(2) The legislative body shall:]~~

1762 ~~[(a) hold a public hearing on the proposed subdivision ordinance recommended to it by~~
1763 ~~the planning commission; and]~~

1764 ~~[(b) provide reasonable notice of the public hearing at least 14 days before the date of~~
1765 ~~the hearing;]~~

1766 ~~[(3) After the public hearing, the]~~

1767 (d) hold a public hearing on the proposed ordinance before making its final
1768 recommendation to the legislative body.

1769 (2) The municipal legislative body may[-(a)] adopt or reject the [subdivision]
1770 ordinance either as proposed[-(b) amend the subdivision ordinance and adopt or reject it as
1771 amended; or (c) reject the ordinance] by the planning commission or after making any revision
1772 the legislative body considers appropriate.

1773 Section 52. Section **10-9a-603**, which is renumbered from Section 10-9-804 is
1774 renumbered and amended to read:

1775 ~~[10-9-804].~~ **10-9a-603. Plats required.**

1776 (1) Unless exempt under Section ~~[10-9-806]~~ 10-9a-605 or ~~[not included in]~~ excluded
1777 from the definition of subdivision under Subsection [10-9-103(1)] 10-9a-103(34), whenever
1778 any [lands are] land is laid out and platted, the owner of [those lands] the land shall provide an
1779 accurate plat that describes or specifies:

1780 (a) a name or designation of the subdivision that is distinct from any plat already
1781 recorded in the county recorder's office;

1782 ~~[(a)]~~ (b) the boundaries, course, and dimensions of [the parcels of ground;] all of the
1783 parcels of ground divided, by their boundaries, course, and extent, whether the owner proposes
1784 that any parcel of ground is intended to be used as a street or for any other public use, and
1785 whether any such area is reserved or proposed for dedication for a public purpose;

1786 ~~[(b) whether the parcels of ground are intended to be used as streets or for other public~~
1787 ~~uses, and whether any areas are reserved for public purposes;]~~

1788 (c) the lot or unit reference, ~~[the]~~ block or building reference, ~~[the]~~ street or site
1789 address, ~~[the]~~ street name or coordinate address, ~~[the]~~ acreage or square footage for all parcels,
1790 units, or lots, and ~~[the]~~ length and width of the blocks and lots intended for sale; and

1791 (d) every existing right-of-way and easement [grants] grant of record for underground
1792 facilities, as defined in Section 54-8a-2, and for other utility facilities.

1793 (2) Subject to Subsections (3), (4), and (5), if the plat conforms to the municipality's
1794 ordinances and this part and has been approved by the culinary water authority and the sanitary
1795 sewer authority, the municipality shall approve the plat.

1796 (3) The municipality may withhold an otherwise valid plat approval until the owner of
1797 the land provides the legislative body with a tax clearance indicating that all taxes, interest, and
1798 penalties owing on the land have been paid.

1799 ~~[(2)]~~ (4) (a) The owner of the land shall acknowledge the plat before an officer
1800 authorized by law to take the acknowledgement of conveyances of real estate and shall obtain
1801 the signature of each individual designated by the municipality.

1802 (b) The surveyor making the plat shall certify ~~[it:]~~ that the surveyor:

1803 (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and
1804 Professional Land Surveyors Licensing Act;

1805 (ii) has completed a survey of the property described on the plat in accordance with
1806 Section 17-23-17 and has verified all measurements; and

1807 (iii) has placed monuments as represented on the plat.

1808 (c) ~~[The]~~ As applicable, the owner or operator of the underground and utility facilities
1809 shall approve the ~~[plat of its property interest if it specifies]:~~

1810 (i) ~~[the]~~ boundary, course, dimensions, and intended use of the right-of-way and
1811 easement grants of record;

1812 (ii) ~~[the]~~ location of existing underground and utility facilities; and

1813 (iii) ~~[any]~~ conditions or restrictions governing the location of the facilities within the
1814 right-of-way, and easement grants of records, and utility facilities within the subdivision.

1815 ~~[(d) The legislative body shall approve the plat as provided in this part. Before the~~
1816 ~~legislative body may approve a plat, the owner of the land shall provide the legislative body~~
1817 ~~with a tax clearance indicating that all taxes, interest, and penalties owing on the land have~~
1818 ~~been paid.]~~

1819 ~~[(3)]~~ (5) (a) After the plat has been acknowledged, certified, and approved, the owner
1820 of the land shall, ~~[subject to Subsection (3)(b), record it]~~ within the time period designated by
1821 ordinance, record the plat in the county recorder's office in the county in which the lands
1822 platted and laid out are situated.

1823 ~~[(b) An owner of land may not submit for recording a plat that gives the subdivision~~

1824 described in the plat the same name as a subdivision in a plat already recorded in the county
1825 recorder's office.]

1826 (b) An owner's failure to record a plat within the time period designated by ordinance
1827 renders the plat voidable.

1828 Section 53. Section **10-9a-604**, which is renumbered from Section 10-9-805 is
1829 renumbered and amended to read:

1830 **[10-9-805]. 10-9a-604. Subdivision approval procedure.**

1831 (1) A person may not submit a [~~plat of a~~] subdivision plat to the county recorder's
1832 office for recording unless a recommendation has been received from the planning commission
1833 and:

1834 (a) the plat has been approved by:

1835 (i) the [~~legislative body~~] land use authority of the municipality in which the
1836 [~~subdivision~~] land described in the plat is located; [~~or~~] and

1837 (ii) other officers that the [~~municipal legislative body~~] municipality designates in [~~an~~]
1838 its ordinance; and

1839 (b) [~~the approval is~~] all approvals are entered in writing on the plat by the [~~mayor or~~
1840 ~~chairperson of the legislative body or by the other officers~~] designated [~~in the ordinance~~]
1841 officers.

1842 [~~(2) In municipalities under the council-mayor form of government, Section~~
1843 ~~10-3-1219.5 governs.~~]

1844 [~~(3)~~] (2) A subdivision plat recorded without the [~~approval~~] signatures required under
1845 this section is void.

1846 (3) A transfer of land pursuant to a void plat is voidable.

1847 Section 54. Section **10-9a-605**, which is renumbered from Section 10-9-806 is
1848 renumbered and amended to read:

1849 **[10-9-806]. 10-9a-605. Exemptions from plat requirement.**

1850 [~~(1) (a) Notwithstanding Sections 10-9-804 and 10-9-805, a person may submit to the~~
1851 ~~county recorder's office for recording a document that subdivides property by metes and~~
1852 ~~bounds into less than ten lots, without the necessity of recording a plat, if:~~]

1853 [(i) the planning commission, if required by municipal ordinance, has given the
1854 ~~municipal legislative body its recommendation, whether favorable or not, and]~~

1855 ~~[(ii) the document contains a certificate or written approval from:]~~
1856 ~~[(A) the legislative body of the municipality in which the property is located; or]~~
1857 ~~[(B) other officers that the municipal legislative body designates in an ordinance.]~~
1858 ~~[(b) By indicating its approval on a document under Subsection (1)(a), the municipal~~
1859 ~~legislative body or other officer designated by the municipal legislative officer certifies that:]~~
1860 ~~[(i) the planning commission:]~~
1861 ~~[(A) has given its recommendation to the municipal legislative body; or]~~
1862 ~~[(B) is not required by municipal ordinance to give its recommendation;]~~
1863 (1) Notwithstanding Sections 10-9a-603 and 10-9a-604, the land use authority may
1864 approve a subdivision of ten lots or less without a plat, by certifying in writing that:
1865 (a) the municipality has provided notice as required by ordinance and Sections
1866 10-9a-206 and 10-9a-207; and
1867 [(ii)] (b) the proposed subdivision:
1868 (i) is not traversed by the mapped lines of a proposed street as shown in the general
1869 plan and does not require the dedication of any land for street or other public purposes; and
1870 [(iii) if the subdivision is located in a zoned area, each lot in the subdivision meets the
1871 frontage, width, and area requirements of the zoning ordinance or has been granted a variance
1872 from those requirements by the board of adjustment.]
1873 ~~[(2) Municipalities under the council-mayor form of government shall comply with~~
1874 ~~Section 10-3-1219.5:]~~
1875 (ii) has been approved by the culinary water authority and the sanitary sewer authority;
1876 (iii) is located in a zoned area; and
1877 (iv) conforms to all applicable land use ordinances or has properly received a variance
1878 from the requirements of an otherwise conflicting and applicable land use ordinance.
1879 ~~[(3)] (2) (a) Subject to Subsection [(3)](b) (1), a lot or parcel resulting from a division~~
1880 ~~of agricultural land is exempt from the plat requirements of Section [10-9-804] 10-9a-603 if~~
1881 ~~the lot or parcel:~~
1882 ~~(i) qualifies as land in agricultural use under Title 59, Chapter 2, Part 5, Farmland~~
1883 ~~Assessment Act;~~
1884 ~~(ii) meets the minimum size requirement of applicable [zoning] land use ordinances;~~
1885 ~~and~~

1886 (iii) is not used and will not be used for any nonagricultural purpose.

1887 (b) The boundaries of each lot or parcel exempted under Subsection ~~[(3)(a)]~~ (1) shall
1888 be graphically illustrated on a record of survey map that, after receiving the same approvals as
1889 are required for a plat under Section ~~[10-9-805]~~ 10-9a-604, shall be recorded with the county
1890 recorder.

1891 (c) If a lot or parcel exempted under Subsection ~~[(3)(a)]~~ (2)(a) is used for a
1892 nonagricultural purpose, the municipality ~~[in which the lot or parcel is located]~~ may require the
1893 lot or parcel to comply with the requirements of Section ~~[10-9-804]~~ 10-9a-603.

1894 ~~[(4)]~~ (3) (a) Documents recorded in the county recorder's office that divide property by
1895 a metes and bounds description do not create ~~[a]~~ an approved subdivision allowed by this part
1896 unless the land use authority's certificate of written approval required by Subsection (1)~~[(a)(ii)]~~
1897 is attached to the document.

1898 (b) The absence of the certificate or written approval required by Subsection (1)~~[(a)(ii)]~~
1899 does not affect the validity of a recorded document.

1900 (c) A document ~~[recorded under Subsection (1)(a)]~~ which does not meet the
1901 requirements of Subsection (1)~~[(a)(ii)]~~ may be corrected ~~[to comply with Subsection (1)(a)(ii)]~~
1902 by the recording of an affidavit to which the required certificate or written approval is attached
1903 in accordance with Section 57-3-106.

1904 Section 55. Section **10-9a-606**, which is renumbered from Section 10-9-806.5 is
1905 renumbered and amended to read:

1906 ~~[10-9-806.5].~~ **10-9a-606. Common area parcels on a plat -- No separate**
1907 **ownership -- Ownership interest equally divided among other parcels on plat and**
1908 **included in description of other parcels.**

1909 (1) A parcel designated as common area on a plat recorded in compliance with this part
1910 may not be separately owned or conveyed independent of the other parcels created by the plat.

1911 (2) The ownership interest in a parcel described in Subsection (1) shall:

1912 (a) for purposes of assessment, be divided equally among all parcels created by the
1913 plat, unless a different division of interest for assessment purposes is indicated on the plat or an
1914 accompanying recorded document; and

1915 (b) be considered to be included in the description of each instrument describing a
1916 parcel on the plat by its identifying plat number, even if the common area interest is not

1917 explicitly stated in the instrument.

1918 Section 56. Section **10-9a-607**, which is renumbered from Section 10-9-807 is
1919 renumbered and amended to read:

1920 ~~[10-9-807].~~ **10-9a-607. Dedication of streets.**

1921 (1) Plats, when made, acknowledged, and recorded according to the procedures
1922 specified in this part, operate as a dedication of all streets and other public places, and vest the
1923 fee of those parcels of land in the municipality for the public for the uses named or intended in
1924 those plats.

1925 (2) The dedication established by this section does not impose liability upon the
1926 municipality for streets and other public places that are dedicated in this manner but are
1927 unimproved.

1928 Section 57. Section **10-9a-608**, which is renumbered from Section 10-9-808 is
1929 renumbered and amended to read:

1930 ~~[10-9-808].~~ **10-9a-608. Vacating or changing a subdivision plat.**

1931 (1) (a) Subject to ~~[Subsection (2), the legislative body of a municipality or any other~~
1932 ~~officer that the legislative body designates by ordinance]~~ Section 10-9a-610, and provided that
1933 notice has been given pursuant to local ordinance and Section 10-9a-208, the land use authority
1934 may, with or without a petition, consider and resolve any proposed vacation, alteration, or
1935 amendment of a subdivision plat, any portion of a subdivision plat, or any street, lot, or alley
1936 contained in a subdivision plat ~~[at a public hearing].~~

1937 (b) If a petition is filed, the ~~[responsible body or officer]~~ land use authority shall hold
1938 ~~[the]~~ a public hearing within 45 days after receipt of the planning commission's
1939 recommendation under Subsection (2) if:

1940 (i) the plat change includes the vacation of a public street or alley;

1941 (ii) any owner within the plat notifies the municipality of their objection in writing
1942 within ten days of mailed notification; or

1943 (iii) a public hearing is required because all of the owners in the subdivision have not
1944 signed the revised plat.

1945 (2) (a) ~~[Before the legislative body or officer designated by the legislative body may~~
1946 ~~consider]~~ The planning commission shall consider and provide a recommendation for a
1947 proposed vacation, alteration, or amendment under Subsection (1)(a) or (6)~~], the legislative~~

1948 ~~body or officer shall refer the proposal to the planning commission for its recommendation]~~
1949 before the land use authority takes final action.

1950 (b) The planning commission shall give its recommendation within 30 days after the
1951 proposed vacation, alteration, or amendment is referred to it, or as that time period is extended
1952 by agreement with the applicant.

1953 (3) Any fee owner, as shown on the last county assessment rolls, of land within the
1954 subdivision that has been laid out and platted as provided in this part may, in writing, petition
1955 ~~[the legislative body]~~ to have the plat, any portion of it, or any street or lot contained in it,
1956 vacated, altered, or amended as provided in this section.

1957 (4) Each petition to vacate, alter, or amend an entire plat, a portion of a plat, or a street
1958 or lot contained in a plat shall include:

1959 (a) the name and address of all owners of record of the land contained in the entire plat;

1960 (b) the name and address of all owners of record of land adjacent to any street that is
1961 proposed to be vacated, altered, or amended; and

1962 (c) the signature of each of these owners who consents to the petition.

1963 (5) (a) A petition that lacks the consent of all owners referred to in Subsection (4) may
1964 not be scheduled for consideration at a public hearing before the ~~[legislative body]~~ planning
1965 commission until the notice required by ~~[this part is given]~~ Section 10-9a-207 or 10-9a-208, as
1966 applicable, is given.

1967 (b) The petitioner shall pay the cost of the notice.

1968 (6) Subject to Subsection (2), if the ~~[responsible body or officer]~~ applicant proposes to
1969 vacate, alter, or amend a subdivision plat, or any street or lot contained in a subdivision plat,
1970 ~~[they]~~ the planning commission shall consider the issue at a public hearing after giving the
1971 notice required by ~~[this part]~~ Section 10-9a-207 or 10-9a-208, as applicable.

1972 (7) (a) The owners of record of adjacent parcels that are described by either a metes
1973 and bounds description or a recorded plat may exchange title to portions of those parcels if the
1974 exchange of title is approved by the ~~[planning commission, or such other person or board as the~~
1975 ~~municipal legislative body may designate,]~~ land use authority in accordance with Subsection
1976 (7)(b).

1977 (b) The ~~[planning commission, or such other person or board as the municipal~~
1978 ~~legislative body may designate,]~~ land use authority shall approve an exchange of title under

1979 Subsection (7)(a) if:

1980 (i) no new dwelling lot or housing unit will result from the exchange of title; and

1981 (ii) the exchange of title will not result in a violation of [~~applicable zoning~~
1982 ~~requirements~~] any land use ordinance.

1983 (c) If an exchange of title is approved under Subsection (7)(b), a notice of approval
1984 shall be recorded [~~by the planning commission, or such other person or board as the municipal~~
1985 ~~legislative body may designate,~~] in the office of the county recorder which:

1986 (i) is executed by each owner included in the exchange and by the [~~planning~~
1987 ~~commission, or such other person or board as the municipal legislative body may designate~~]
1988 land use authority;

1989 (ii) contains an acknowledgment for each party executing the notice in accordance with
1990 the provisions of Title 57, Chapter 2a, Recognition of Acknowledgments Act; and

1991 (iii) recites the descriptions of both the original parcels and the parcels created by the
1992 exchange of title.

1993 (d) A notice of approval recorded under this Subsection (7) does not act as a
1994 conveyance of title to real property and is not required for the recording of a document
1995 purporting to convey title to real property.

1996 (8) (a) The name of a recorded subdivision may be changed by recording an amended
1997 plat making that change, as provided in this section and subject to Subsection (8)(c).

1998 (b) The surveyor [~~making~~] preparing the amended plat shall certify [~~it.~~] that the
1999 surveyor:

2000 (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and
2001 Professional Land Surveyors Licensing Act;

2002 (ii) has completed a survey of the property described on the plat in accordance with
2003 Section 17-23-17 and has verified all measurements; and

2004 (iii) has placed monuments as represented on the plat.

2005 (c) An owner of land may not submit for recording an amended plat that gives the
2006 subdivision described in the amended plat the same name as a subdivision in a plat already
2007 recorded in the county recorder's office.

2008 (d) Except as provided in Subsection (8)(a), the recording of a declaration or other
2009 document that purports to change the name of a recorded plat is [~~void~~] voidable.

2010 ~~[(9) Municipalities operating under the council-mayor form of government shall~~
2011 ~~comply with Section 10-3-1219.5.]~~

2012 Section 58. Section **10-9a-609**, which is renumbered from Section 10-9-810 is
2013 renumbered and amended to read:

2014 **[10-9-810]. 10-9a-609. Grounds for vacating or changing a plat.**

2015 (1) ~~[(a)]~~ Within 30 days after the public hearing required by this part, ~~[the responsible~~
2016 ~~body or officer]~~ or as that time period may be extended by agreement of the parties, the land
2017 use authority shall consider the petition to vacate or change a plat.

2018 ~~[(b)]~~ (2) If the ~~[responsible body or officer]~~ land use authority is satisfied that neither
2019 the public interest nor any person will be materially injured by the proposed vacation,
2020 alteration, or amendment, and that there is good cause for the vacation, alteration, or
2021 amendment, the ~~[legislative body, by ordinance;]~~ land use authority may vacate, alter, or amend
2022 the plat, any portion of the plat, or any street or lot.

2023 ~~[(c)]~~ (3) The ~~[responsible body or officer]~~ land use authority may approve the vacation,
2024 alteration, or amendment by ~~[ordinance]~~ resolution, amended plat, administrative order, or deed
2025 containing a stamp or mark indicating approval by the ~~[responsible body or officer]~~ land use
2026 authority.

2027 ~~[(d)]~~ (4) The ~~[responsible body or officer]~~ land use authority shall ensure that the
2028 vacation, alteration, or amendment is recorded in the office of the county recorder in which the
2029 land is located.

2030 ~~[(2) An aggrieved party may appeal the responsible body's or officer's decision to~~
2031 ~~district court as provided in Section 10-9-1001.]~~

2032 ~~[(3) Municipalities operating in a council-mayor form of government shall comply with~~
2033 ~~Section 10-3-1219.5.]~~

2034 (5) The action of the land use authority vacating or narrowing a street or alley that has
2035 been dedicated to public use shall operate to the extent to which it is vacated or narrowed, upon
2036 the effective date of the vacating ordinance, as a revocation of the acceptance thereof, and the
2037 relinquishment of the city's fee therein, but the right-of-way and easements therein, if any, of
2038 any lot owner and the franchise rights of any public utility may not be impaired thereby.

2039 Section 59. Section **10-9a-610**, which is renumbered from Section 10-9-901 is
2040 renumbered and amended to read:

2041 ~~[10-9-901].~~ **10-9a-610. Restrictions for solar and other energy devices.**

2042 ~~[(1) The legislative body, in order to protect and ensure access to sunlight for solar~~
2043 ~~energy devices, may adopt regulations governing legislative subdivision development plans~~
2044 ~~that relate to the use of restrictive covenants or solar easements, height restrictions, side yard~~
2045 ~~and setback requirements, street and building orientation and width requirements, height and~~
2046 ~~location of vegetation with respect to property boundary lines, and other permissible forms of~~
2047 ~~land use controls.]~~

2048 ~~[(2) The [legislative body] land use authority may refuse to approve or renew any plat~~
2049 ~~[or], subdivision plan, or dedication of any street or other ground, if [the] deed restrictions,~~
2050 ~~covenants, or similar binding agreements running with the land for the lots or parcels covered~~
2051 ~~by the plat or subdivision prohibit or have the effect of prohibiting reasonably sited and~~
2052 ~~designed solar collectors, clotheslines, or other energy devices based on renewable resources~~
2053 ~~from being installed on buildings erected on lots or parcels covered by the plat or subdivision.~~

2054 Section 60. Section **10-9a-611**, which is renumbered from Section 10-9-811 is
2055 renumbered and amended to read:

2056 ~~[10-9-811].~~ **10-9a-611. Prohibited acts.**

2057 (1) (a) An owner of any land located in a subdivision~~[, as defined in this chapter,]~~ who
2058 transfers or sells any land in that subdivision before a plat of the subdivision has been approved
2059 and recorded violates this part for each lot or parcel transferred or sold.

2060 (b) The description by metes and bounds in ~~[the]~~ an instrument of transfer or other
2061 documents used in the process of selling or transferring does not exempt the transaction from
2062 being a violation of Subsection (1)(a) or from the penalties or remedies provided in this
2063 chapter.

2064 (c) Notwithstanding any other provision of this Subsection (1), the recording of an
2065 instrument of transfer or other document used in the process of selling or transferring real
2066 property that violates this part:

2067 (i) does not affect the validity of the instrument or other document; and

2068 (ii) does not affect whether the property that is the subject of the instrument or other
2069 document complies with applicable municipal ordinances on land use and development.

2070 (2) (a) A municipality may bring an action against an owner to require the property to
2071 conform to the provisions of this part or an ordinance enacted under the authority of this part.

2072 (b) An action under this Subsection (2) may include an injunction, abatement, merger
2073 of title, or any other appropriate action or proceeding to prevent, enjoin, or abate the violation.

2074 (c) A municipality need only establish the violation to obtain the injunction.

2075 Section 61. Section **10-9a-701** is enacted to read:

2076 **Part 7. Appeal Authority and Variances**

2077 **10-9a-701. Appeal authority -- Condition precedent to judicial review -- Appeal**
2078 **authorities.**

2079 (1) Each municipality adopting a land use ordinance shall, by ordinance, establish one
2080 or more appeal authorities to hear and decide:

2081 (a) requests for variances from the terms of the land use ordinances; and

2082 (b) appeals from decisions applying the land use ordinances.

2083 (2) As a condition precedent to judicial review, each adversely affected person shall
2084 timely and specifically challenge a land use authority's decision, in accordance with local
2085 ordinance.

2086 (3) An appeal authority:

2087 (a) shall:

2088 (i) act in a quasi-judicial manner; and

2089 (ii) serve as the final arbiter of issues involving the interpretation or application of land
2090 use ordinances; and

2091 (b) may not entertain an appeal of a matter in which the appeal authority, or any
2092 participating member, had first acted as the land use authority.

2093 (4) By ordinance, a municipality may:

2094 (a) designate a separate appeal authority to hear requests for variances than the appeal
2095 authority it designates to hear appeals;

2096 (b) designate one or more separate appeal authorities to hear distinct types of appeals
2097 of land use authority decisions;

2098 (c) require an adversely affected party to present to an appeal authority every theory of
2099 relief that it can raise in district court;

2100 (d) not require an adversely affected party to pursue duplicate or successive appeals
2101 before the same or separate appeal authorities as a condition of the adversely affected party's
2102 duty to exhaust administrative remedies; and

2103 (e) provide that specified types of land use decisions may be appealed directly to the
2104 district court.

2105 (5) If the municipality establishes or, prior to the effective date of this chapter, has
2106 established a multiperson board, body, or panel to act as an appeal authority, at a minimum the
2107 board, body, or panel shall:

2108 (a) notify each of its members of any meeting or hearing of the board, body, or panel;

2109 (b) provide each of its members with the same information and access to municipal
2110 resources as any other member;

2111 (c) convene only if a quorum of its members is present; and

2112 (d) act only upon the vote of a majority of its convened members.

2113 Section 62. Section **10-9a-702**, which is renumbered from Section 10-9-707 is
2114 renumbered and amended to read:

2115 **[10-9-707]. 10-9a-702. Variances.**

2116 (1) Any person or entity desiring a waiver or modification of the requirements of [~~the~~
2117 ~~zoning~~] a land use ordinance as applied to a parcel of property that he owns, leases, or in which
2118 he holds some other beneficial interest may apply to the [~~board of adjustment~~] applicable
2119 appeal authority for a variance from the terms of the [~~zoning~~] ordinance.

2120 (2) (a) The [~~board of adjustment~~] appeal authority may grant a variance only if:

2121 (i) literal enforcement of the [~~zoning~~] ordinance would cause an unreasonable hardship
2122 for the applicant that is not necessary to carry out the general purpose of the [~~zoning ordinance~~]
2123 land use ordinances;

2124 (ii) there are special circumstances attached to the property that do not generally apply
2125 to other properties in the same [~~district~~] zone;

2126 (iii) granting the variance is essential to the enjoyment of a substantial property right
2127 possessed by other property in the same [~~district~~] zone;

2128 (iv) the variance will not substantially affect the general plan and will not be contrary
2129 to the public interest; and

2130 (v) the spirit of the [~~zoning~~] land use ordinance is observed and substantial justice
2131 done.

2132 (b) (i) In determining whether or not enforcement of the [~~zoning~~] land use ordinance
2133 would cause unreasonable hardship under Subsection (2)(a), the [~~board of adjustment~~] appeal

2134 authority may not find an unreasonable hardship unless the alleged hardship:

2135 (A) is located on or associated with the property for which the variance is sought; and

2136 (B) comes from circumstances peculiar to the property, not from conditions that are
2137 general to the neighborhood.

2138 (ii) In determining whether or not enforcement of the [~~zoning~~] land use ordinance
2139 would cause unreasonable hardship under Subsection (2)(a), the [~~board of adjustment~~] appeal
2140 authority may not find an unreasonable hardship if the hardship is self-imposed or economic.

2141 (c) In determining whether or not there are special circumstances attached to the
2142 property under Subsection (2)(a), the [~~board of adjustment~~] appeal authority may find that
2143 special circumstances exist only if the special circumstances:

2144 (i) relate to the hardship complained of; and

2145 (ii) deprive the property of privileges granted to other properties in the same [~~district~~]
2146 zone.

2147 (3) The applicant shall bear the burden of proving that all of the conditions justifying a
2148 variance have been met.

2149 (4) Variances run with the land.

2150 (5) The [~~board of adjustment and any other body~~] appeal authority may not grant a use
2151 [~~variances~~] variance.

2152 (6) In granting a variance, the [~~board of adjustment~~] appeal authority may impose
2153 additional requirements on the applicant that will:

2154 (a) mitigate any harmful affects of the variance; or

2155 (b) serve the purpose of the standard or requirement that is waived or modified.

2156 Section 63. Section **10-9a-703** is enacted to read:

2157 **10-9a-703. Standing before appeal authority.**

2158 The applicant, a board or officer of the municipality, or any person adversely affected
2159 by the land use authority's decision administering or interpreting a land use ordinance may,
2160 within the time period provided by ordinance, appeal that decision to the appeal authority by
2161 alleging that there is error in any order, requirement, decision, or determination made by the
2162 land use authority in the administration or interpretation of the land use ordinance.

2163 Section 64. Section **10-9a-704** is enacted to read:

2164 **10-9a-704. Time to appeal.**

2165 (1) The municipality shall enact an ordinance establishing a reasonable time to appeal a
2166 decision of a land use authority to an appeal authority.

2167 (2) In the absence of such an ordinance and at a minimum, an adversely affected party
2168 shall have ten calendar days to appeal.

2169 Section 65. Section **10-9a-705** is enacted to read:

2170 **10-9a-705. Burden of proof.**

2171 The appellant has the burden of proving that the land use authority erred.

2172 Section 66. Section **10-9a-706** is enacted to read:

2173 **10-9a-706. Due process.**

2174 (1) Each appeal authority shall conduct each appeal and variance request as provided in
2175 local ordinance.

2176 (2) Each appeal authority shall respect the due process rights of each of the
2177 participants.

2178 Section 67. Section **10-9a-707** is enacted to read:

2179 **10-9a-707. Standard of review for appeals.**

2180 (1) A municipality may, by ordinance, designate the standard of review for appeals of
2181 land use authority decisions.

2182 (2) If the municipality fails to designate a standard of review of factual matters, the
2183 appeal authority shall review the matter de novo.

2184 (3) The appeal authority shall determine the correctness of a decision of the land use
2185 authority in its interpretation and application of a land use ordinance.

2186 (4) Only those decisions in which a land use authority has applied a land use ordinance
2187 to a particular application, person, or parcel may be appealed to an appeal authority.

2188 Section 68. Section **10-9a-708** is enacted to read:

2189 **10-9a-708. Final decision.**

2190 (1) A decision of an appeal authority takes effect on the date when the appeal authority
2191 issues a written decision, or as otherwise provided by ordinance.

2192 (2) A written decision, or other event as provided by ordinance, constitutes a final
2193 decision under Subsection 10-9a-802(2)(a) or a final action under Subsection 10-9a-801(4).

2194 Section 69. Section **10-9a-801**, which is renumbered from Section 10-9-1001 is
2195 renumbered and amended to read:

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Part 8. District Court Appeal

~~[10-9-1001]~~. **10-9a-801. Appeals to district court.**

(1) No person may challenge in district court a municipality's land use ~~[decisions]~~ decision made under this chapter, or under ~~[the]~~ a regulation made under authority of this chapter, until that person has exhausted ~~[his]~~ the person's administrative remedies as provided in Part 7, Appeal Authority and Variances, if applicable.

(2) (a) Any person adversely affected by ~~[any]~~ a final decision made in the exercise of or in violation of the provisions of this chapter may file a petition for review of the decision with the district court within 30 days after the local land use decision is ~~[rendered]~~ final.

(b) (i) The time under Subsection (2)(a) to file a petition is tolled from the date a property owner files a request for arbitration of a constitutional taking issue with the property rights ombudsman under Section 63-34-13 until 30 days after:

(A) the arbitrator issues a final award; or

(B) the property rights ombudsman issues a written statement under Subsection 63-34-13(4)(b) declining to arbitrate or to appoint an arbitrator.

(ii) A tolling under Subsection (2)(b)(i) operates only as to the specific constitutional taking issue that is the subject of the request for arbitration filed with the property rights ombudsman by a property owner.

(iii) A request for arbitration filed with the property rights ombudsman after the time under Subsection (2)(a) to file a petition has expired does not affect the time to file a petition.

(3) (a) The courts shall:

~~[(a)]~~ (i) presume that ~~[land use decisions and regulations are]~~ a decision, ordinance, or regulation made under the authority of this chapter is valid; and

~~[(b)]~~ (ii) determine only whether or not the decision, ordinance, or regulation is arbitrary, capricious, or illegal.

(b) A decision, ordinance, or regulation involving the exercise of legislative discretion is valid if the decision, ordinance, or regulation is reasonably debatable and not illegal.

(c) A final decision of a land use authority or an appeal authority is valid if the decision is supported by substantial evidence in the record and is not arbitrary, capricious, or illegal.

(d) A determination of illegality requires a determination that the decision, ordinance, or regulation violates a law, statute, or ordinance in effect at the time the decision was made or

2227 the ordinance or regulation adopted.

2228 (4) The provisions of Subsection (2)(a) apply from the date on which the municipality
2229 takes final action on a land use application for any adversely affected third party, if the
2230 municipality conformed with the notice provisions of Part 2, Notice, or for any person who had
2231 actual notice of the pending decision.

2232 (5) If the municipality has complied with Section 10-9a-205, a challenge to the
2233 enactment of a land use ordinance or general plan may not be filed with the district court more
2234 than 30 days after the enactment.

2235 (6) The petition is barred unless it is filed within 30 days after the appeal authority's
2236 decision is final.

2237 (7) (a) The land use authority or appeal authority, as the case may be, shall transmit to
2238 the reviewing court the record of its proceedings, including its minutes, findings, orders, and, if
2239 available, a true and correct transcript of its proceedings.

2240 (b) If the proceeding was tape recorded, a transcript of that tape recording is a true and
2241 correct transcript for purposes of this Subsection (7).

2242 (8) (a) (i) If there is a record, the district court's review is limited to the record provided
2243 by the land use authority or appeal authority, as the case may be.

2244 (ii) The court may not accept or consider any evidence outside the record of the land
2245 use authority or appeal authority, as the case may be, unless that evidence was offered to the
2246 land use authority or appeal authority, respectively, and the court determines that it was
2247 improperly excluded.

2248 (b) If there is no record, the court may call witnesses and take evidence.

2249 (9) (a) The filing of a petition does not stay the decision of the land use authority or
2250 authority appeal authority, as the case may be.

2251 (b) (i) Before filing a petition under this section or a request for mediation or
2252 arbitration of a constitutional taking issue under Section 63-34-13, the aggrieved party may
2253 petition the appeal authority to stay its decision.

2254 (ii) Upon receipt of a petition to stay, the appeal authority may order its decision stayed
2255 pending district court review if the appeal authority finds it to be in the best interest of the
2256 municipality.

2257 (iii) After a petition is filed under this section or a request for mediation or arbitration

2258 of a constitutional taking issue is filed under Section 63-34-13, the petitioner may seek an
2259 injunction staying the appeal authority's decision.

2260 Section 70. Section **10-9a-802**, which is renumbered from Section 10-9-1002 is
2261 renumbered and amended to read:

2262 ~~[10-9-1002].~~ **10-9a-802. Enforcement.**

2263 (1) (a) A municipality or any adversely affected owner of real estate within the
2264 municipality in which violations of this chapter or ordinances enacted under the authority of
2265 this chapter occur or are about to occur may, in addition to other remedies provided by law,
2266 institute:

2267 (i) injunctions, mandamus, abatement, or any other appropriate actions; or
2268 (ii) proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.

2269 (b) A municipality need only establish the violation to obtain the injunction.

2270 (2) (a) The municipality may enforce the ordinance by withholding building permits.

2271 (b) It is unlawful to erect, construct, reconstruct, alter, or change the use of any
2272 building or other structure within a municipality without approval of a building permit.

2273 (c) The municipality may not issue a building permit unless the plans of and for the
2274 proposed erection, construction, reconstruction, alteration, or use fully conform to all
2275 regulations then in effect.

2276 Section 71. Section **10-9a-803**, which is renumbered from Section 10-9-1003 is
2277 renumbered and amended to read:

2278 ~~[10-9-1003].~~ **10-9a-803. Penalties.**

2279 (1) The ~~[municipal legislative body]~~ municipality may, by ordinance, establish civil
2280 penalties for violations of any of the provisions of this chapter or of any ordinances adopted
2281 under the authority of this chapter.

2282 (2) Violation of any of the provisions of this chapter or of any ordinances adopted
2283 under the authority of this chapter ~~[are]~~ is punishable as a class C misdemeanor upon
2284 conviction either:

2285 (a) as a class C misdemeanor; or

2286 (b) by imposing the appropriate civil penalty adopted under the authority of this
2287 section.

2288 Section 72. Section **11-36-201** is amended to read:

2289 **11-36-201. Impact fees -- Analysis -- Capital facilities plan -- Notice of plan --**
2290 **Summary -- Exemptions.**

2291 (1) (a) Each local political subdivision and private entity shall comply with the
2292 requirements of this chapter before establishing or modifying any impact fee.

2293 (b) A local political subdivision may not:

2294 (i) establish any new impact fees that are not authorized by this chapter; or

2295 (ii) impose or charge any other fees as a condition of development approval unless
2296 those fees are a reasonable charge for the service provided.

2297 (c) Notwithstanding any other requirements of this chapter, each local political
2298 subdivision shall ensure that each existing impact fee that is charged for any public facility not
2299 authorized by Subsection 11-36-102(12) is repealed by July 1, 1995.

2300 (d) (i) Existing impact fees for public facilities authorized in Subsection 11-36-102(12)
2301 that are charged by local political subdivisions need not comply with the requirements of this
2302 chapter until July 1, 1997.

2303 (ii) By July 1, 1997, each local political subdivision shall:

2304 (A) review any impact fees in existence as of the effective date of this act, and prepare
2305 and approve the analysis required by this section for each of those impact fees; and

2306 (B) ensure that the impact fees comply with the requirements of this chapter.

2307 (2) (a) Before imposing impact fees, each local political subdivision shall prepare a
2308 capital facilities plan.

2309 (b) (i) As used in this Subsection (2)(b):

2310 (A) (I) "Affected entity" means each county, municipality, independent special district
2311 under Title 17A, Chapter 2, Independent Special Districts, local district under Title 17B,
2312 Chapter 2, Local Districts, school district, interlocal cooperation entity established under
2313 Chapter 13, Interlocal Cooperation Act, and specified public utility:

2314 (Aa) whose services or facilities are likely to require expansion or significant
2315 modification because of the facilities proposed in the proposed capital facilities plan; or

2316 (Bb) that has filed with the local political subdivision or private entity a copy of the
2317 general or long-range plan of the county, municipality, independent special district, local
2318 district, school district, interlocal cooperation entity, or specified public utility.

2319 (II) "Affected entity" does not include the local political subdivision or private entity

2320 that is required under this Subsection (2) to provide notice.

2321 (B) "Specified public utility" means an electrical corporation, gas corporation, or
2322 telephone corporation, as those terms are defined in Section 54-2-1.

2323 (ii) Before preparing a capital facilities plan for facilities proposed on land located
2324 within a county of the first or second class, each local political subdivision and each private
2325 entity shall provide written notice, as provided in this Subsection (2)(b), of its intent to prepare
2326 a capital facilities plan.

2327 (iii) Each notice under Subsection (2)(b)(ii) shall:

2328 (A) indicate that the local political subdivision or private entity intends to prepare a
2329 capital facilities plan;

2330 (B) describe or provide a map of the geographic area where the proposed capital
2331 facilities will be located;

2332 (C) be sent to:

2333 (I) each county in whose unincorporated area and each municipality in whose
2334 boundaries is located the land on which the proposed facilities will be located;

2335 (II) each affected entity;

2336 (III) the Automated Geographic Reference Center created in Section 63A-6-202;

2337 (IV) the association of governments, established pursuant to an interlocal agreement
2338 under Title 11, Chapter 13, Interlocal Cooperation Act, in which the facilities are proposed to
2339 be located; and

2340 (V) the state planning coordinator appointed under Section 63-38d-202; and

2341 (D) with respect to the notice to affected entities, invite the affected entities to provide
2342 information for the local political subdivision or private entity to consider in the process of
2343 preparing, adopting, and implementing a capital facilities plan concerning:

2344 (I) impacts that the facilities proposed in the capital facilities plan may have on the
2345 affected entity; and

2346 (II) facilities or uses of land that the affected entity is planning or considering that may
2347 conflict with the facilities proposed in the capital facilities plan.

2348 (c) The plan shall identify:

2349 (i) demands placed upon existing public facilities by new development activity; and

2350 (ii) the proposed means by which the local political subdivision will meet those

2351 demands.

2352 (d) Municipalities and counties need not prepare a separate capital facilities plan if the
2353 general plan required by Sections 10-9-301 and 17-27-301 contains the elements required by
2354 Subsection (2)(c).

2355 (e) (i) If a local political subdivision prepares an independent capital facilities plan
2356 rather than including a capital facilities element in the general plan, the local political
2357 subdivision shall, before adopting the capital facilities plan:

2358 (A) give public notice of the plan according to this Subsection (2)(e);

2359 (B) at least 14 days before the date of the public hearing:

2360 (I) make a copy of the plan, together with a summary designed to be understood by a
2361 lay person, available to the public; and

2362 (II) place a copy of the plan and summary in each public library within the local
2363 political subdivision; and

2364 (C) hold a public hearing to hear public comment on the plan.

2365 (ii) Municipalities shall comply with the notice and hearing requirements of, and,
2366 except as provided in Subsection 11-36-401(4)(f), receive the protections of [~~Subsections~~
2367 ~~10-9-103(2) and 10-9-402(2)~~] Sections 10-9a-205 and 10-9a-801 and Subsection 10-9a-502(2).

2368 (iii) Counties shall comply with the notice and hearing requirements of, and, except as
2369 provided in Subsection 11-36-401(4)(f), receive the protections of [~~Subsections 17-27-103(2)~~
2370 ~~and 17-27-402(2)~~] Sections 17-27a-205 and 17-27a-801 and Subsection 17-27a-502(2).

2371 (iv) Special districts and private entities shall comply with the notice and hearing
2372 requirements of, and receive the protections of, Section 17A-1-203.

2373 (v) Nothing contained in this Subsection (2)(e) or in the subsections referenced in
2374 Subsections (2)(e)(ii) and (iii) may be construed to require involvement by a planning
2375 commission in the capital facilities planning process.

2376 (f) (i) Local political subdivisions with a population or serving a population of less
2377 than 5,000 as of the last federal census need not comply with the capital facilities plan
2378 requirements of this part, but shall ensure that the impact fees imposed by them are based upon
2379 a reasonable plan.

2380 (ii) Subsection (2)(f)(i) does not apply to private entities.

2381 (3) In preparing the plan, each local political subdivision shall generally consider all

2382 revenue sources, including impact fees, to finance the impacts on system improvements.

2383 (4) A local political subdivision may only impose impact fees on development
2384 activities when its plan for financing system improvements establishes that impact fees are
2385 necessary to achieve an equitable allocation to the costs borne in the past and to be borne in the
2386 future, in comparison to the benefits already received and yet to be received.

2387 (5) (a) Each local political subdivision imposing impact fees shall prepare a written
2388 analysis of each impact fee that:

2389 (i) identifies the impact on system improvements required by the development activity;

2390 (ii) demonstrates how those impacts on system improvements are reasonably related to
2391 the development activity;

2392 (iii) estimates the proportionate share of the costs of impacts on system improvements
2393 that are reasonably related to the new development activity; and

2394 (iv) based upon those factors and the requirements of this chapter, identifies how the
2395 impact fee was calculated.

2396 (b) In analyzing whether or not the proportionate share of the costs of public facilities
2397 are reasonably related to the new development activity, the local political subdivision shall
2398 identify, if applicable:

2399 (i) the cost of existing public facilities;

2400 (ii) the manner of financing existing public facilities, such as user charges, special
2401 assessments, bonded indebtedness, general taxes, or federal grants;

2402 (iii) the relative extent to which the newly developed properties and the other
2403 properties in the municipality have already contributed to the cost of existing public facilities,
2404 by such means as user charges, special assessments, or payment from the proceeds of general
2405 taxes;

2406 (iv) the relative extent to which the newly developed properties and the other
2407 properties in the municipality will contribute to the cost of existing public facilities in the
2408 future;

2409 (v) the extent to which the newly developed properties are entitled to a credit because
2410 the municipality is requiring their developers or owners, by contractual arrangement or
2411 otherwise, to provide common facilities, inside or outside the proposed development, that have
2412 been provided by the municipality and financed through general taxation or other means, apart

2413 from user charges, in other parts of the municipality;

2414 (vi) extraordinary costs, if any, in servicing the newly developed properties; and

2415 (vii) the time-price differential inherent in fair comparisons of amounts paid at
2416 different times.

2417 (c) Each local political subdivision that prepares a written analysis under this
2418 Subsection (5) on or after July 1, 2000 shall also prepare a summary of the written analysis,
2419 designed to be understood by a lay person.

2420 (6) Each local political subdivision that adopts an impact fee enactment under Section
2421 11-36-202 on or after July 1, 2000 shall, at least 14 days before adopting the enactment, submit
2422 to each public library within the local political subdivision:

2423 (a) a copy of the written analysis required by Subsection (5)(a); and

2424 (b) a copy of the summary required by Subsection (5)(c).

2425 (7) Nothing in this chapter may be construed to repeal or otherwise eliminate any
2426 impact fee in effect on the effective date of this act that is pledged as a source of revenues to
2427 pay bonded indebtedness that was incurred before the effective date of this act.

2428 Section 73. Section **11-36-202** is amended to read:

2429 **11-36-202. Impact fees -- Enactment -- Required provisions.**

2430 (1) (a) Each local political subdivision wishing to impose impact fees shall pass an
2431 impact fee enactment.

2432 (b) The impact fee imposed by that enactment may not exceed the highest fee justified
2433 by the impact fee analysis performed pursuant to Section 11-36-201.

2434 (c) In calculating the impact fee, each local political subdivision may include:

2435 (i) the construction contract price;

2436 (ii) the cost of acquiring land, improvements, materials, and fixtures;

2437 (iii) the cost for planning, surveying, and engineering fees for services provided for and
2438 directly related to the construction of the system improvements; and

2439 (iv) debt service charges, if the political subdivision might use impact fees as a revenue
2440 stream to pay the principal and interest on bonds, notes, or other obligations issued to finance
2441 the costs of the system improvements.

2442 (d) In enacting an impact fee enactment:

2443 (i) municipalities shall:

2444 (A) make a copy of the impact fee enactment available to the public at least 14 days
2445 before the date of the public hearing; and

2446 (B) comply with the notice and hearing requirements of, and, except as provided in
2447 Subsection 11-36-401(4)(f), receive the protections of[, ~~Subsections 10-9-103(2) and~~
2448 ~~10-9-802(2)~~] Sections 10-9a-207 and 10-9a-801;

2449 (ii) counties shall:

2450 (A) make a copy of the impact fee enactment available to the public at least 14 days
2451 before the date of the public hearing; and

2452 (B) comply with the notice and hearing requirements of, and, except as provided in
2453 Subsection 11-36-401(4)(f), receive the protections of[, ~~Subsections 17-27-103(2) and~~
2454 ~~17-27-802(2)~~] Sections 17-27a-207 and 17-27a-801; and

2455 (iii) special districts shall:

2456 (A) make a copy of the impact fee enactment available to the public at least 14 days
2457 before the date of the public hearing; and

2458 (B) comply with the notice and hearing requirements of, and receive the protections of,
2459 Section 17A-1-203.

2460 (e) Nothing contained in Subsection (1)(d) or in the subsections referenced in
2461 Subsections (1)(d)(i)(B) and (ii)(B) may be construed to require involvement by a planning
2462 commission in the impact fee enactment process.

2463 (2) The local political subdivision shall ensure that the impact fee enactment contains:

2464 (a) a provision establishing one or more service areas within which it shall calculate
2465 and impose impact fees for various land use categories;

2466 (b) either:

2467 (i) a schedule of impact fees for each type of development activity that specifies the
2468 amount of the impact fee to be imposed for each type of system improvement; or

2469 (ii) the formula that the local political subdivision will use to calculate each impact fee;

2470 (c) a provision authorizing the local political subdivision to adjust the standard impact
2471 fee at the time the fee is charged to:

2472 (i) respond to unusual circumstances in specific cases; and

2473 (ii) ensure that the impact fees are imposed fairly; and

2474 (d) a provision governing calculation of the amount of the impact fee to be imposed on

2475 a particular development that permits adjustment of the amount of the fee based upon studies
2476 and data submitted by the developer.

2477 (3) The local political subdivision may include a provision in the impact fee enactment
2478 that:

2479 (a) exempts low income housing and other development activities with broad public
2480 purposes from impact fees and establishes one or more sources of funds other than impact fees
2481 to pay for that development activity;

2482 (b) imposes an impact fee for public facility costs previously incurred by a local
2483 political subdivision to the extent that new growth and development will be served by the
2484 previously constructed improvement; and

2485 (c) allows a credit against impact fees for any dedication of land for, improvement to,
2486 or new construction of, any system improvements provided by the developer if the facilities:

2487 (i) are identified in the capital facilities plan; and

2488 (ii) are required by the local political subdivision as a condition of approving the
2489 development activity.

2490 (4) Except as provided in Subsection (3)(b), the local political subdivision may not
2491 impose an impact fee to cure deficiencies in public facilities serving existing development.

2492 (5) Notwithstanding the requirements and prohibitions of this chapter, a local political
2493 subdivision may impose and assess an impact fee for environmental mitigation when:

2494 (a) the local political subdivision has formally agreed to fund a Habitat Conservation
2495 Plan to resolve conflicts with the Endangered Species Act of 1973, 16 U.S.C. Sec 1531, et seq.
2496 or other state or federal environmental law or regulation;

2497 (b) the impact fee bears a reasonable relationship to the environmental mitigation
2498 required by the Habitat Conservation Plan; and

2499 (c) the legislative body of the local political subdivision adopts an ordinance or
2500 resolution:

2501 (i) declaring that an impact fee is required to finance the Habitat Conservation Plan;

2502 (ii) establishing periodic sunset dates for the impact fee; and

2503 (iii) requiring the legislative body to:

2504 (A) review the impact fee on those sunset dates;

2505 (B) determine whether or not the impact fee is still required to finance the Habitat

2506 Conservation Plan; and

2507 (C) affirmatively reauthorize the impact fee if the legislative body finds that the impact
2508 fee must remain in effect.

2509 (6) Each political subdivision shall ensure that any existing impact fee for
2510 environmental mitigation meets the requirements of Subsection (5) by July 1, 1995.

2511 (7) Notwithstanding any other provision of this chapter, municipalities imposing
2512 impact fees to fund fire trucks as of the effective date of this act may impose impact fees for
2513 fire trucks until July 1, 1997.

2514 (8) Notwithstanding any other provision of this chapter, a local political subdivision
2515 may impose and collect impact fees on behalf of a school district if authorized by Section
2516 53A-20-100.5.

2517 Section 74. Section **11-36-401** is amended to read:

2518 **11-36-401. Impact fees -- Challenges -- Appeals.**

2519 (1) Any person or entity residing in or owning property within a service area, and any
2520 organization, association, or corporation representing the interests of persons or entities owning
2521 property within a service area, may file a declaratory judgment action challenging the validity
2522 of the fee.

2523 (2) (a) Any person or entity required to pay an impact fee who believes the fee does not
2524 meet the requirements of law may file a written request for information with the local political
2525 subdivision who established the fee.

2526 (b) Within two weeks of the receipt of the request for information, the local political
2527 subdivision shall provide the person or entity with the written analysis required by Section
2528 11-36-201, the capital facilities plan, and with any other relevant information relating to the
2529 impact fee.

2530 (3) (a) Any local political subdivision may establish, by ordinance, an administrative
2531 appeals procedure to consider and decide challenges to impact fees.

2532 (b) If the local political subdivision establishes an administrative appeals procedure,
2533 the local political subdivision shall ensure that the procedure includes a requirement that the
2534 local political subdivision make its decision no later than 30 days after the date the challenge to
2535 the impact fee is filed.

2536 (4) (a) In addition to the method of challenging an impact fee under Subsection (1), a

2537 person or entity that has paid an impact fee that was imposed by a local political subdivision
2538 may challenge:

2539 (i) if the impact fee enactment was adopted on or after July 1, 2000:

2540 (A) whether the local political subdivision complied with the notice requirements of
2541 this chapter with respect to the imposition of the impact fee; and

2542 (B) whether the local political subdivision complied with other procedural
2543 requirements of this chapter for imposing the impact fee; and

2544 (ii) except as limited by Subsection (4)(a)(i), the impact fee.

2545 (b) A challenge under Subsection (4)(a) may not be initiated unless it is initiated
2546 within:

2547 (i) for a challenge under Subsection (4)(a)(i)(A), 30 days after the person or entity pays
2548 the impact fee;

2549 (ii) for a challenge under Subsection (4)(a)(i)(B), 180 days after the person or entity
2550 pays the impact fee; or

2551 (iii) for a challenge under Subsection (4)(a)(ii), one year after the person or entity pays
2552 the impact fee.

2553 (c) A challenge under Subsection (4)(a) is initiated by filing:

2554 (i) if the local political subdivision has established an administrative appeals procedure
2555 under Subsection (3), the necessary document, under the administrative appeals procedure, for
2556 initiating the administrative appeal;

2557 (ii) a request for arbitration as provided in Subsection 11-36-402(1); or

2558 (iii) an action in district court.

2559 (d) (i) The sole remedy for a challenge under Subsection (4)(a)(i)(A) is the equitable
2560 remedy of requiring the local political subdivision to correct the defective notice and repeat the
2561 process.

2562 (ii) The sole remedy for a challenge under Subsection (4)(a)(i)(B) is the equitable
2563 remedy of requiring the local political subdivision to correct the defective process.

2564 (iii) The sole remedy for a challenge under Subsection (4)(a)(ii) is a refund of the
2565 difference between what the person or entity paid as an impact fee and the amount the impact
2566 fee should have been if it had been correctly calculated.

2567 (e) Nothing in this Subsection (4) may be construed as requiring a person or entity to

2568 exhaust administrative remedies with the local political subdivision before filing an action in
2569 district court under this Subsection (4).

2570 (f) The protections given to a municipality under [~~Subsection 10-9-103(2)~~] Section
2571 10-9a-801 and to a county under [~~Subsection 17-27-103(2)~~] Section 17-27a-801 do not apply in
2572 a challenge under Subsection (4)(a)(i)(A).

2573 (5) The judge may award reasonable attorneys' fees and costs to the prevailing party in
2574 any action brought under this section.

2575 (6) Nothing in this chapter may be construed as restricting or limiting any rights to
2576 challenge impact fees that were paid before the effective date of this chapter.

2577 Section 75. Section **17-27a-101**, which is renumbered from Section 17-27-101 is
2578 renumbered and amended to read:

2579 **CHAPTER 27a. COUNTY LAND USE, DEVELOPMENT, AND MANAGEMENT ACT**

2580 **Part 1. General Provisions**

2581 [~~17-27-101~~]. **17-27a-101. Title.**

2582 This chapter [~~shall be~~] is known as the "County Land Use, Development, and
2583 Management Act."

2584 Section 76. Section **17-27a-102**, which is renumbered from Section 17-27-102 is
2585 renumbered and amended to read:

2586 [~~17-27-102~~]. **17-27a-102. Purposes -- General land use authority.**

2587 [~~(1) To accomplish the purpose~~]

2588 (1) (a) The purposes of this chapter [~~and in order~~] are to provide for the health, safety,
2589 and welfare, and promote the prosperity, improve the morals, peace and good order, comfort,
2590 convenience, and aesthetics of [~~the~~] each county and its present and future inhabitants and
2591 businesses, to protect the tax base, to secure economy in governmental expenditures, to foster
2592 the state's agricultural and other industries, to protect both urban and nonurban development, to
2593 protect and ensure access to sunlight for solar energy devices, and to protect property values[;].

2594 (b) To accomplish the purposes of this chapter, counties may enact all ordinances,
2595 resolutions, and rules and may enter into other forms of land use controls and development
2596 agreements that they consider necessary or appropriate for the use and development of land
2597 within the unincorporated area of the county, including ordinances, resolutions, [~~and~~] rules,
2598 restrictive covenants, easements, and development agreements governing uses, density, open

2599 spaces, structures, buildings, energy-efficiency, light and air, air quality, transportation and
 2600 public or alternative transportation, infrastructure, street and building orientation and width
 2601 requirements, public facilities, and height and location of vegetation, [~~and~~] trees, and
 2602 landscaping, unless [~~those ordinances, resolutions, or rules are~~] expressly prohibited by law.

2603 (2) [~~A~~] Each county shall comply with the mandatory provisions of this part before any
 2604 agreement or contract to provide goods, services, or municipal-type services to any storage
 2605 facility or transfer facility for high-level nuclear waste, or greater than class C radioactive
 2606 waste, may be executed or implemented.

2607 Section 77. Section ~~17-27a-103~~, which is renumbered from Section 17-27-103 is
 2608 renumbered and amended to read:

2609 [~~17-27-103~~]. **17-27a-103. Definitions.**

2610 [~~(+)~~] As used in this chapter:

2611 (1) "Affected entity" means a county, municipality, independent special district under
 2612 Title 17A, Chapter 2, Independent Special Districts, local district under Title 17B, Chapter 2,
 2613 Local Districts, school district, interlocal cooperation entity established under Title 11, Chapter
 2614 13, Interlocal Cooperation Act, specified public utility, or the Utah Department of
 2615 Transportation, if:

2616 (a) the entity's services or facilities are likely to require expansion or significant
 2617 modification because of an intended use of land;

2618 (b) the entity has filed with the county a copy of the entity's general or long-range plan;

2619 or

2620 (c) the entity's boundaries or facilities are within one mile of land that is the subject of
 2621 a general plan amendment or land use ordinance change.

2622 (2) "Appeal authority" means the person, board, commission, agency, or other body
 2623 designated by ordinance to decide an appeal of a decision of a land use application or a
 2624 variance.

2625 [~~(a)~~] (3) "Billboard" means a freestanding ground sign located on industrial,
 2626 commercial, or residential property if the sign is designed or intended to direct attention to a
 2627 business, product, or service that is not sold, offered, or existing on the property where the sign
 2628 is located.

2629 [~~(b)~~] (4) "Chief executive officer" means the person or body that exercises the

2630 executive powers of the county.

2631 ~~[(e)]~~ (5) "Conditional use" means a land use that, because of its unique characteristics
2632 or potential impact on the county, surrounding neighbors, or adjacent land uses, may not be
2633 compatible in some areas or may be compatible only if certain conditions are required that
2634 mitigate or eliminate the detrimental impacts.

2635 ~~[(d)]~~ (6) "Constitutional taking" ~~[has the meaning as defined in Section 63-34-13.]~~
2636 means a governmental action that results in a taking of private property so that compensation to
2637 the owner of the property is required by the:

2638 ~~[(e)]~~ "County" means the unincorporated area of the county.]:

2639 (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

2640 (b) Utah Constitution Article I, Section 22.

2641 (7) "Culinary water authority" means the department, agency, or public entity with
2642 responsibility to review and approve the feasibility of the culinary water system and sources for
2643 the subject property.

2644 (8) (a) "Disability" means a physical or mental impairment that substantially limits one
2645 or more of a person's major life activities, including a person having a record of such an
2646 impairment or being regarded as having such an impairment.

2647 (b) "Disability" does not include current illegal use of, or addiction, any federally
2648 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
2649 802.

2650 ~~[(f)]~~ (9) "Elderly person" means a person who is 60 years old or older, who desires or
2651 needs to live with other elderly persons in a group setting, but who is capable of living
2652 independently.

2653 ~~[(g)]~~ (10) "Gas corporation" has the same meaning as defined in Section 54-2-1.

2654 ~~[(h)]~~(i) (11) "General plan" means a document that a county adopts that sets forth
2655 general guidelines for proposed future development of the unincorporated land within the
2656 county~~[, as set forth in Sections 17-27-301 and 17-27-302].~~

2657 ~~[(i)]~~ "General plan" includes what is also commonly referred to as a "master plan."

2658 (12) "Identical plans" means building plans submitted to a county that are substantially
2659 identical building plans that were previously submitted and reviewed and approved by the
2660 county and describe a building that is:

2661 (a) located on land zoned the same as the land on which the building described in the
2662 previously approved plans is located; and

2663 (b) subject to the same geological and meteorological conditions and the same law as
2664 the building described in the previously approved plans.

2665 [(†)] (13) "Interstate pipeline company" means a person or entity engaged in natural gas
2666 transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under
2667 the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

2668 [(‡)] (14) "Intrastate pipeline company" means a person or entity engaged in natural gas
2669 transportation that is not subject to the jurisdiction of the Federal Energy Regulatory
2670 Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

2671 (15) "Land use application" means an application required by a county's land use
2672 ordinance.

2673 (16) "Land use authority" means a person, board, commission, agency, or other body
2674 designated by the local legislative body to act upon a land use application.

2675 (17) "Land use ordinance" means a planning, zoning, development, or subdivision
2676 ordinance of the county, but does not include the general plan.

2677 [(✕)] (18) "Legislative body" means the county legislative body, or for a county that has
2678 adopted an alternative form of government, the body exercising legislative powers.

2679 [(†)] (19) "Lot line adjustment" means the relocation of the property boundary line in a
2680 subdivision between two adjoining lots with the consent of the owners of record.

2681 [(m) "~~Municipality~~" means a city or town.]

2682 [(n) "~~Nonconforming~~"]

2683 (20) "Moderate income housing" means housing occupied or reserved for occupancy
2684 by households with a gross household income equal or less than 80% of the median gross
2685 income for households of the same size in the county in which the housing is located.

2686 (21) "Nominal fee" means a fee that reasonably reimburses a county only for time spent
2687 and expenses incurred in:

2688 (a) verifying that building plans are identical plans; and

2689 (b) reviewing and approving those minor aspects of identical plans that differ from the
2690 previously reviewed and approved building plans.

2691 (22) "Noncomplying structure" means a structure that:

2692 [(i)] (a) legally existed before its current [~~zoning~~] land use designation; and

2693 [(ii)] (b) because of one or more subsequent [~~zoning~~] land use ordinance changes, does

2694 not conform [~~with~~] to the [~~zoning regulation's~~] setback, height restrictions, or other regulations

2695 [~~that~~] , excluding those regulations that govern the [structure] use of land.

2696 [(e)] (23) "Nonconforming use" means a use of land that:

2697 [(i)] (a) legally existed before its current [~~zoning~~] land use designation;

2698 [(ii)] (b) has been maintained continuously since the time the [~~zoning~~] land use

2699 ordinance regulation governing the land changed; and

2700 [(iii)] (c) because of one or more subsequent [~~zoning~~] land use ordinance changes, does

2701 not conform [~~with~~] to the [~~zoning~~] regulations that now govern the use of the land.

2702 [(p) ~~"Official map" has the same meaning as provided in Section 72-5-401.~~]

2703 (24) "Official map" means a map drawn by county authorities and recorded in the

2704 county recorder's office that:

2705 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for

2706 highways and other transportation facilities;

2707 (b) provides a basis for restricting development in designated rights-of-way or between

2708 designated setbacks to allow the government authorities time to purchase or otherwise reserve

2709 the land; and

2710 (c) has been adopted as an element of the county's general plan.

2711 [(q)] (25) "Person" means an individual, corporation, partnership, organization,

2712 association, trust, governmental agency, or any other legal entity.

2713 (26) "Plan for moderate income housing" means a written document adopted by a

2714 county legislative body that includes:

2715 (a) an estimate of the existing supply of moderate income housing located within the

2716 county;

2717 (b) an estimate of the need for moderate income housing in the county for the next five

2718 years as revised biennially;

2719 (c) a survey of total residential land use;

2720 (d) an evaluation of how existing land uses and zones affect opportunities for moderate

2721 income housing; and

2722 (e) a description of the county's program to encourage an adequate supply of moderate

2723 income housing.

2724 [(†)] (27) "Plat" means a map or other graphical representation of lands being laid out
2725 and prepared in accordance with Section [~~17-27-804~~] 17-27a-603, 17-23-17, or 57-8-13.

2726 (28) "Public hearing" means a hearing at which members of the public are provided a
2727 reasonable opportunity to comment on the subject of the hearing.

2728 (29) "Public meeting" means a meeting that is required to be open to the public under
2729 Title 52, Chapter 4, Open and Public Meetings.

2730 [(s)] (30) "Record of survey map" means a map of a survey of land prepared in
2731 accordance with Section 17-23-17.

2732 [(†)(i)] (31) "Residential facility for elderly persons" means a single-family or
2733 multiple-family dwelling unit that meets the requirements of Part [~~5 and any ordinance adopted~~
2734 ~~under authority of that part. (ii) "Residential facility for elderly persons"~~] 4, General Plan, but
2735 does not include a health care facility as defined by Section 26-21-2.

2736 (32) "Residential facility for persons with a disability" means a residence:

2737 (a) in which more than one person with a disability resides; and

2738 (b) (i) is licensed or certified by the Department of Human Services under Title 62A,
2739 Chapter 2, Licensure of Programs and Facilities; or

2740 (ii) is licensed or certified by the Department of Health under Title 26, Chapter 21,
2741 Health Care Facility Licensing and Inspection Act.

2742 (33) "Sanitary sewer authority" means the department, agency, or public entity with
2743 responsibility to review and approve the feasibility of sanitary sewer services or onsite
2744 wastewater systems.

2745 [(†)] (34) "Special district" means [~~all entities~~] any entity established under the
2746 authority of Title 17A, Special Districts, and any other governmental or quasi-governmental
2747 entity that is not a county, municipality, school district, or unit of the state.

2748 [(v)] ~~"Street" means public rights-of-way, including highways, avenues, boulevards,~~
2749 ~~parkways, roads, lanes, walks, alleys, viaducts, subways, tunnels, bridges, public easements,~~
2750 ~~and other ways.]~~

2751 (35) "Specified public utility" means an electrical corporation, gas corporation, or
2752 telephone corporation, as those terms are defined in Section 54-2-1.

2753 (36) "Street" means a public right-of-way, including a highway, avenue, boulevard,

2754 parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other
2755 way.

2756 [~~(w)~~(i)] (37) "Subdivision" means any land that is divided, resubdivided or proposed
2757 to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the
2758 purpose, whether immediate or future, for offer, sale, lease, or development either on the
2759 installment plan or upon any and all other plans, terms, and conditions.

2760 [(ii)] (a) "Subdivision" includes:

2761 (i) the division or development of land whether by deed, metes and bounds description,
2762 devise and testacy, [~~lease,~~] map, plat, or other recorded instrument[-]; and

2763 (ii) except as provided in Subsection (37)(b), divisions of land for residential and
2764 nonresidential uses, including land used or to be used for commercial, agricultural, and
2765 industrial purposes.

2766 [(iii)] (b) "Subdivision" does not include:

2767 [~~(A)~~] (i) a bona fide division or partition of agricultural land for [~~agricultural purposes;~~
2768 ~~(B)~~] the purpose of joining one of the resulting separate unsubdivided parcels to a contiguous
2769 parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel
2770 remaining from the division or partition violates an applicable land use ordinance;

2771 (ii) a recorded agreement between owners of adjoining properties adjusting their
2772 mutual boundary if:

2773 [(i)] (A) no new lot is created; and

2774 [(ii)] (B) the adjustment does not [~~result in a violation of~~] violate applicable [zoning]
2775 land use ordinances; or

2776 [(iii)] (iii) a recorded document, executed by the owner of record[-];

2777 (A) revising the legal description of more than one contiguous unsubdivided parcel of
2778 property into one legal description encompassing all such parcels of property; or

2779 (B) joining a subdivided parcel of property to another parcel of property that has not
2780 been subdivided, if the joinder does not violate applicable land use ordinances; or

2781 [(iv)] (iv) a bona fide division or partition of land in a county other than a first class
2782 county for the purpose of siting, on one or more of the resulting separate parcels:

2783 [(i)] (A) an unmanned facility appurtenant to a pipeline owned or operated by a gas
2784 corporation, interstate pipeline company, or intrastate pipeline company; or

2785 ~~[(H)]~~ (B) an unmanned telecommunications, microwave, fiber optic, electrical, or other
2786 utility service regeneration, transformation, retransmission, or amplification facility.

2787 ~~[(iv)]~~ (c) The joining of a subdivided parcel of property to another parcel of property
2788 that has not been subdivided does not constitute a ~~[“]subdivision[“]~~ under this Subsection
2789 ~~[(1)(w)]~~ (37) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the
2790 county's subdivision ordinance.

2791 (38) "Township" means a contiguous, geographically defined portion of the
2792 unincorporated area of a county, established under this part or reconstituted or reinstated under
2793 Section 17-27a-307, with planning and zoning functions as exercised through the township
2794 planning commission, as provided in this chapter, but with no legal or political identity
2795 separate from the county and no taxing authority, except that "township" means a former
2796 township under Chapter 308, Laws of Utah 1996 where the context so indicates.

2797 ~~[(x)]~~ (39) "Unincorporated" means the area outside of the incorporated ~~[boundaries of~~
2798 ~~cities and towns]~~ area of a municipality.

2799 ~~[(2)(a) A county meets the requirements of reasonable notice required by this chapter~~
2800 ~~if it:]~~

2801 ~~[(i) posts notice of the hearing or meeting in at least three public places within the~~
2802 ~~jurisdiction and publishes notice of the hearing or meeting in a newspaper of general~~
2803 ~~circulation in the jurisdiction, if one is available; or]~~

2804 ~~[(ii) gives actual notice of the hearing or meeting.]~~

2805 ~~[(b) A county legislative body may enact an ordinance establishing stricter notice~~
2806 ~~requirements than those required by this Subsection (2).]~~

2807 ~~[(c) (i) Proof that one of the two forms of notice authorized by this Subsection (2) was~~
2808 ~~given is prima facie evidence that notice was properly given.]~~

2809 ~~[(ii) If notice given under authority of this section is not challenged as provided in~~
2810 ~~Section 17-27-1001 within 30 days from the date of the meeting for which the notice was~~
2811 ~~given, the notice is considered adequate and proper.]~~

2812 (40) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts
2813 land use zones, overlays, or districts.

2814 Section 78. Section **17-27a-104**, which is renumbered from Section 17-27-104 is
2815 renumbered and amended to read:

2816 ~~[17-27-104].~~ **17-27a-104. Stricter requirements.**

2817 (1) Except as provided in Subsection (2), ~~[counties]~~ a county may enact ~~[ordinances]~~
2818 an ordinance imposing stricter requirements or higher standards than are required by this
2819 chapter.

2820 (2) A county may not impose stricter requirements or higher standards than are
2821 required by:

2822 (a) Section ~~[17-27-105]~~ 17-27a-305;

2823 (b) Section ~~[17-27-105.5]~~ 17-27a-513;

2824 ~~[(c) Part 5, Residential Facilities for Elderly; and]~~

2825 ~~[(d) Part 6, Residential Facilities for Persons with a Disability.]~~

2826 (c) Section 17-27a-515; and

2827 (d) Section 17-27a-519.

2828 Section 79. Section **17-27a-201** is enacted to read:

2829 **Part 2. Notice**

2830 **17-27a-201. Required notice.**

2831 (1) At a minimum, each county shall provide actual notice or the notice required by
2832 this part.

2833 (2) A county may by ordinance require greater notice than required under this part.

2834 Section 80. Section **17-27a-202** is enacted to read:

2835 **17-27a-202. Applicant notice.**

2836 For each land use application, the county shall notify the applicant of the date, time, and
2837 place of each public hearing and public meeting to consider the application and of any final
2838 action on a pending application.

2839 Section 81. Section **17-27a-203**, which is renumbered from Section 17-27-301.5 is
2840 renumbered and amended to read:

2841 ~~[17-27-301.5].~~ **17-27a-203. Notice of intent to prepare a general plan or**
2842 **amendments to a general plan in certain counties.**

2843 ~~[(1) As used in this section:]~~

2844 ~~[(a) (i) "Affected entity" means each county, municipality, independent special district~~
2845 ~~under Title 17A, Chapter 2, Independent Special Districts, local district under Title 17B,~~
2846 ~~Chapter 2, Local Districts, school district, interlocal cooperation entity established under Title~~

2847 11, Chapter 13, Interlocal Cooperation Act, and specified public utility:]
 2848 [~~(A) whose services or facilities are likely to require expansion or significant~~
 2849 ~~modification because of an intended use of land; or]~~
 2850 [~~(B) that has filed with the county a copy of the entity's general or long-range plan.]~~
 2851 [~~(ii) "Affected entity" does not include the county that is required under this section to~~
 2852 ~~provide notice.]~~
 2853 [~~(b) "Specified public utility" means an electrical corporation, gas corporation, or~~
 2854 ~~telephone corporation, as those terms are defined in Section 54-2-1.]~~
 2855 [~~(2)~~] (1) Before preparing a proposed general plan or [~~amendments to an existing~~] a
 2856 comprehensive general plan amendment, each county of the first or second class shall provide
 2857 [~~written~~] ten calendar days notice[, ~~as provided in this section,~~] of its intent to prepare a
 2858 proposed general plan or [~~amendments to~~] a comprehensive general plan[-] amendment to:
 2859 (a) each affected entity;
 2860 (b) the Automated Geographic Reference Center created in Section 63A-6-202;
 2861 (c) the association of governments, established pursuant to an interlocal agreement
 2862 under Title 11, Chapter 13, Interlocal Cooperation Act, of which the county is a member; and
 2863 (d) the state planning coordinator appointed under Section 63-38d-202.
 2864 [~~(3)~~] (2) Each notice under Subsection [~~(2)~~] (1) shall:
 2865 (a) indicate that the county intends to prepare a general plan or [~~amendments to a~~] a
 2866 comprehensive general plan amendment, as the case may be;
 2867 (b) describe or provide a map of the geographic area that will be affected by the general
 2868 plan or [~~amendments to a general plan~~] amendment;
 2869 (c) be sent [~~to~~] by mail, e-mail, or other effective means;
 2870 [~~(i) each affected entity;~~]
 2871 [~~(ii) the Automated Geographic Reference Center created in Section 63A-6-202;~~]
 2872 [~~(iii) the association of governments, established pursuant to an interlocal agreement~~
 2873 ~~under Title 11, Chapter 13, Interlocal Cooperation Act, of which the county is a member; and]~~
 2874 [~~(iv) the state planning coordinator appointed under Section 63-38d-202;~~]
 2875 (d) [~~with respect to the notice to affected entities;~~] invite the affected entities to provide
 2876 information for the county to consider in the process of preparing, adopting, and implementing
 2877 a general plan or [~~amendments to a general plan~~] amendment concerning:

2878 (i) impacts that the use of land proposed in the proposed general plan or [~~amendments~~
2879 ~~to a general plan~~] amendment may have [~~on the affected entity~~]; and

2880 (ii) uses of land within the county that the affected entity is [~~planning or~~] considering
2881 that may conflict with the proposed general plan or [~~amendments to the general plan~~]
2882 amendment; and

2883 (e) include the address of an Internet website, if the county has one, and the name and
2884 telephone number of a person where more information can be obtained concerning the county's
2885 proposed general plan or [~~amendments to a general plan~~] amendment.

2886 Section 82. Section **17-27a-204** is enacted to read:

2887 **17-27a-204. Notice of public hearings and public meetings to consider general**
2888 **plan or amendments.**

2889 (1) A county shall provide:

2890 (a) notice of the date, time, and place of the first public hearing to consider the original
2891 adoption or any modification of all or any portion of a general plan; and

2892 (b) notice of each public meeting on the subject.

2893 (2) Each notice of a public hearing under Subsection (1)(a) shall be at least ten
2894 calendar days before the public hearing and shall be:

2895 (a) published in a newspaper of general circulation in the area;

2896 (b) mailed to each affected entity; and

2897 (c) posted:

2898 (i) in at least three public locations within the county; or

2899 (ii) on the county's official website.

2900 (3) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours
2901 before the meeting and shall be:

2902 (a) submitted to a newspaper of general circulation in the area; and

2903 (b) posted:

2904 (i) in at least three public locations within the county; or

2905 (ii) on the county's official website.

2906 Section 83. Section **17-27a-205** is enacted to read:

2907 **17-27a-205. Notice of public hearings and public meetings on adoption or**
2908 **modification of land use ordinance.**

2909 (1) Each county shall give:
2910 (a) notice of the date, time, and place of the first public hearing to consider the
2911 adoption or modification of a land use ordinance; and
2912 (b) notice of each public meeting on the subject.
2913 (2) Each notice of a public hearing under Subsection (1)(a) shall be:
2914 (a) mailed to each affected entity at least ten calendar days before the public hearing;
2915 (b) posted:
2916 (i) in at least three public locations within the county; or
2917 (ii) on the county's official website; and
2918 (c) (i) published in a newspaper of general circulation in the area at least ten calendar
2919 days before the public hearing; or
2920 (ii) mailed at least three days before the public hearing to:
2921 (A) each property owner whose land is directly affected by the land use ordinance
2922 change; and
2923 (B) each adjacent property owner within the parameters specified by county ordinance.
2924 (3) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours
2925 before the hearing and shall be posted:
2926 (a) in at least three public locations within the county; or
2927 (b) on the county's official website.
2928 Section 84. Section **17-27a-206** is enacted to read:
2929 **17-27a-206. Third party notice.**
2930 (1) If a county requires notice to adjacent property owners, the county shall:
2931 (a) mail notice to the record owner of each parcel within parameters specified by
2932 county ordinance; or
2933 (b) post notice on the property with a sign of sufficient size, durability, print quality,
2934 and location that is reasonably calculated to give notice to passers-by.
2935 (2) If a county mails notice to third party property owners under Subsection (1), it shall
2936 mail equivalent notice to property owners within an adjacent jurisdiction.
2937 Section 85. Section **17-27a-207** is enacted to read:
2938 **17-27a-207. Subdivision notice without vacation, alteration, or amendment of a**
2939 **street.**

2940 (1) For a proposed subdivision or an amendment to a subdivision, each county shall
2941 provide notice of the date, time, and place of a public hearing that is:

2942 (a) mailed not less than three calendar days before the public hearing and addressed to
2943 the record owner of each parcel within specified parameters of that property; or

2944 (b) posted not less than three calendar days before the public hearing, on the property
2945 proposed for subdivision, in a visible location, with a sign of sufficient size, durability, and
2946 print quality that is reasonably calculated to give notice to passers-by.

2947 (2) Each county shall mail notice to each affected entity of a public hearing to consider
2948 a preliminary plat describing a multiple-unit residential development or a commercial or
2949 industrial development.

2950 (3) Each county shall provide notice as required by Section 17-27a-208 for a
2951 subdivision that involves a vacation, alteration, or amendment of a street.

2952 Section 86. Section **17-27a-208** is enacted to read:

2953 **17-27a-208. Subdivision notice with vacation, alteration, or amendment of a**
2954 **street.**

2955 For any proposal to vacate, alter, or amend a platted street, the land use authority shall
2956 hold a public hearing and shall give notice of the date, place, and time of the hearing by:

2957 (1) mailing notice as required in Section 17-27a-207;

2958 (2) mailing notice to each affected entity; and

2959 (3) (a) publishing notice once a week for four consecutive weeks before the hearing in
2960 a newspaper of general circulation in the county in which the land subject to the petition is
2961 located; or

2962 (b) if there is no newspaper of general circulation in the county, posting the property
2963 and posting notice in three public places for four consecutive weeks before the hearing.

2964 Section 87. Section **17-27a-209** is enacted to read:

2965 **17-27a-209. Notice challenge.**

2966 If notice given under authority of this part is not challenged under Section 17-27a-801
2967 within 30 days after the meeting or action for which notice is given, the notice is considered
2968 adequate and proper.

2969 Section 88. Section **17-27a-301**, which is renumbered from Section 17-27-201 is
2970 renumbered and amended to read:

Part 3. Planning Commission

~~[17-27-201]~~. **17-27a-301. Appointment term, vacancy, and compensation.**

(1) (a) Except as provided in Subsection (1)(b), each county shall enact an ordinance establishing a countywide planning commission for the unincorporated areas of the county not within a township.

(b) Subsection (1)(a) does not apply if all of the county is included within any combination of:

- (i) municipalities; and
- (ii) townships with their own planning commissions.

(2) The ordinance [~~establishing a countywide planning commission~~] shall define:

(a) the number and terms of the members and, if the county chooses, alternate members;

(b) the mode of appointment;

(c) the procedures for filling vacancies and removal from office; [~~and~~]

(d) the authority of the planning commission; and

~~[(d)]~~ (e) other details relating to the organization and procedures of the planning commission.

(3) (a) If the county establishes a township planning [~~commissions~~] commission, the county legislative body shall enact an ordinance defining appointment procedures, procedures for filling vacancies and removing members from office, and other details relating to the organization and procedures of each township planning commission.

(b) The planning commission for each township shall consist of seven members who, except as provided in Subsection (3)(e), shall be appointed by:

(i) in a county operating under a form of government in which the executive and legislative functions of the governing body are separated, the county executive with the advice and consent of the county legislative body; or

(ii) in a county operating under a form of government in which the executive and legislative functions of the governing body are not separated, the county legislative body.

(c) (i) Members shall serve four-year terms and until their successors are appointed or, as provided in Subsection (3)(e), elected and qualified.

(ii) Notwithstanding the provisions of Subsection (3)(c)(i) and except as provided in

3002 Subsection (3)(e), members of the first planning commissions shall be appointed so that, for
3003 each commission, the terms of at least one member and no more than two members expire each
3004 year.

3005 (d) (i) Except as provided in Subsection (3)(d)(ii), each member of a township planning
3006 commission shall be a registered voter residing within the township.

3007 (ii) (A) Notwithstanding Subsection (3)(d)(i), one member of a planning commission
3008 of a township reconstituted under Chapter 389, Laws of Utah 1997, or reinstated or established
3009 under Subsection [~~17-27-200.5(2)~~] 17-27a-306(1)(e)(i) may be an appointed member who is a
3010 registered voter residing outside the township if that member:

3011 (I) is an owner of real property located within the township; and

3012 (II) resides within the county in which the township is located.

3013 (B) (I) Each appointee under Subsection (3)(d)(ii)(A) shall be chosen by the township
3014 planning commission from a list of three persons submitted by the county legislative body.

3015 (II) If the township planning commission has not notified the county legislative body of
3016 its choice under Subsection (3)(d)(ii)(B)(I) within 60 days of the township planning
3017 commission's receipt of the list, the county legislative body may appoint one of the three
3018 persons on the list or a registered voter residing within the township as a member of the
3019 township planning commission.

3020 (e) (i) The legislative body of each county in which a township reconstituted under
3021 Chapter 389, Laws of Utah 1997, or reinstated or established under Subsection
3022 [~~17-27-200.5(2)~~] 17-27a-306(1)(e)(i) is located shall enact an ordinance that provides for the
3023 election of at least three members of the planning commission of that township.

3024 (ii) The election of planning commission members under Subsection (3)(e)(i) shall
3025 coincide with the election of other county officers during even-numbered years.

3026 Approximately half the elected planning commission members shall be elected every four years
3027 during elections held on even-numbered years, and the remaining elected members shall be
3028 elected every four years on alternating even-numbered years.

3029 (f) (i) (A) The legislative body of each county in which a township reconstituted under
3030 Chapter 389, Laws of Utah 1997, or reinstated or established under Subsection
3031 [~~17-27-200.5(2)~~] 17-27a-306(1)(e)(i) is located shall enact an ordinance appointing each
3032 elected member of the planning and zoning board of the former township, established under

3033 Chapter 308, Laws of Utah 1996, as a member of the planning commission of the reconstituted
3034 or reinstated township. Each member appointed under this subsection shall be considered an
3035 elected member.

3036 (B) (I) Except as provided in Subsection (3)(f)(i)(B)(II), the term of each member
3037 appointed under Subsection (3)(f)(i)(A) shall continue until the time that the member's term as
3038 an elected member of the former township planning and zoning board would have expired.

3039 (II) Notwithstanding Subsection (3)(f)(i)(B)(I), the county legislative body may adjust
3040 the terms of the members appointed under Subsection (3)(f)(i)(A) so that the terms of those
3041 members coincide with the schedule under Subsection (3)(e)(ii) for elected members.

3042 (ii) Subject to Subsection (3)(f)(iii), the legislative body of a county in which a
3043 township reconstituted under Chapter 389, Laws of Utah 1997, or reinstated or established
3044 under Subsection [~~17-27-200.5(2)~~] 17-27a-306(1)(e)(i) is located may enact an ordinance
3045 allowing each appointed member of the planning and zoning board of the former township,
3046 established under Chapter 308, Laws of Utah 1996, to continue to hold office as a member of
3047 the planning commission of the reconstituted or reinstated township until the time that the
3048 member's term as a member of the former township's planning and zoning board would have
3049 expired.

3050 (iii) If a planning commission of a township reconstituted under Chapter 389, Laws of
3051 Utah 1997, or reinstated or established under Subsection [~~17-27-200.5(2)~~] 17-27a-306(1)(e)(i)
3052 has more than one appointed member who resides outside the township, the legislative body of
3053 the county in which that township is located shall, within 15 days of the effective date of this
3054 Subsection (3)(f)(iii), dismiss all but one of the appointed members who reside outside the
3055 township, and a new member shall be appointed under Subsection (3)(b) no later than August
3056 16, 1997, to fill the position of each dismissed member.

3057 (g) (i) Except as provided in Subsection (3)(g)(ii), upon the appointment or election of
3058 all members of a township planning commission, each township planning commission under
3059 this section shall begin to exercise the powers and perform the duties provided in Section
3060 [~~17-27-204~~] 17-27a-302 with respect to all matters then pending that previously had been under
3061 the jurisdiction of the countywide planning commission or township planning and zoning
3062 board.

3063 (ii) Notwithstanding Subsection (3)(g)(i), if the members of a former township

3064 planning and zoning board continue to hold office as members of the planning commission of
3065 the township planning district under an ordinance enacted under Subsection (3)(f), the
3066 township planning commission shall immediately begin to exercise the powers and perform the
3067 duties provided in Section ~~[17-27-204]~~ 17-27a-302 with respect to all matters then pending that
3068 had previously been under the jurisdiction of the township planning and zoning board.

3069 (4) The legislative body may fix per diem compensation for the members of the
3070 planning commission, based on necessary and reasonable expenses and on meetings actually
3071 attended.

3072 Section 89. Section **17-27a-302**, which is renumbered from Section 17-27-204 is
3073 renumbered and amended to read:

3074 ~~[17-27-204].~~ **17-27a-302. Planning commission powers and duties.**

3075 (1) Each countywide or township planning commission shall, with respect to the
3076 unincorporated area of the county, or the township, ~~[as the case may be: (a) prepare and~~
3077 ~~recommend]~~ make a recommendation to the county legislative body for:

3078 (a) a general plan and amendments to the general plan [to the county legislative body
3079 as provided in this chapter];

3080 ~~[(b) recommend zoning ordinances and maps, and amendments to zoning ordinances~~
3081 ~~and maps, to the county legislative body as provided in this chapter;]~~

3082 ~~[(c) administer provisions of the zoning ordinance, if specifically provided for in the~~
3083 ~~zoning ordinance adopted by the county legislative body;]~~

3084 ~~[(d) recommend subdivision regulations and amendments to those regulations to the~~
3085 ~~county legislative body as provided in this chapter;]~~

3086 ~~[(e) recommend approval or denial of subdivision applications as provided in this~~
3087 ~~chapter;]~~

3088 ~~[(f) advise the county legislative body on matters as the county legislative body~~
3089 ~~directs;]~~

3090 ~~[(g) hear or decide any matters that the county legislative body designates, including~~
3091 ~~the approval or denial of, or recommendations to approve or deny, conditional use permits;]~~

3092 ~~[(h) exercise any other powers delegated to it by the county legislative body; and]~~

3093 ~~[(i) exercise any other powers that are necessary to enable it to perform its functions.]~~

3094 (b) land use ordinances, zoning maps, official maps, and amendments;

3095 (c) an appropriate delegation of power to at least one designated land use authority to
 3096 hear and act on a land use application;

3097 (d) an appropriate delegation of power to at least one appeal authority to hear and act
 3098 on an appeal from a decision of the land use authority; and

3099 (e) application processes that:

3100 (i) may include a designation of routine land use matters that, upon application and
 3101 proper notice, will receive informal streamlined review and action if the application is
 3102 uncontested; and

3103 (ii) shall protect the right of each:

3104 (A) applicant and third party to require formal consideration of any application by a
 3105 land use authority;

3106 (B) applicant, adversely affected party, or county officer or employee to appeal a land
 3107 use authority's decision to a separate appeal authority; and

3108 (C) participant to be heard in each public hearing on a contested application.

3109 (2) The planning commission of a township under this part may recommend to the
 3110 legislative body of the county in which the township is located:

3111 (a) that the [county] legislative body support or oppose a proposed incorporation of an
 3112 area located within the township, as provided in Subsection 10-2-105(4); or

3113 (b) that the [county] legislative body file a protest to a proposed annexation of an area
 3114 located within the township, as provided in Subsection 10-2-407(1)(b).

3115 Section 90. Section **17-27a-303**, which is renumbered from Section 17-27-205 is
 3116 renumbered and amended to read:

3117 ~~[17-27-205].~~ **17-27a-303. Entrance upon land.**

3118 A ~~[planning commission or its authorized agents]~~ county may enter upon any land at
 3119 reasonable times to make examinations and surveys[.] pertinent to the:

3120 (1) preparation of its general plan; or

3121 (2) preparation or enforcement of its land use ordinances.

3122 Section 91. Section **17-27a-304**, which is renumbered from Section 17-27-104.5 is
 3123 renumbered and amended to read:

3124 ~~[17-27-104.5].~~ **17-27a-304. State and federal property.**

3125 Unless otherwise provided by law, nothing contained in [Parts 4 and 8 of] this chapter

3126 may be construed as giving [~~the planning commission or the legislative body~~] a county
3127 jurisdiction over [~~properties~~] property owned by the state or the United States [~~government~~].

3128 Section 92. Section **17-27a-305**, which is renumbered from Section 17-27-105 is
3129 renumbered and amended to read:

3130 [~~17-27-105~~]. **17-27a-305. Property owned by other government units --**
3131 **Effect of land use and development ordinances.**

3132 (1) (a) Each county, municipality, school district, special district, and political
3133 subdivision of [~~Utah~~] the state shall conform to [~~the~~] any applicable land use [and development
3134 ordinances] ordinance of any county when installing, constructing, operating, or otherwise
3135 using any area, land, or building situated within [~~that county only in a manner or for a purpose~~
3136 ~~that conforms to that county's ordinances]~~ the unincorporated portion of the county.

3137 (b) In addition to any other remedies provided by law, when a county's land use [~~and~~
3138 ~~development ordinances are being]~~ ordinance is violated or about to be violated by another
3139 political subdivision, that county may institute an injunction, mandamus, abatement, or other
3140 appropriate action or proceeding to prevent, enjoin, abate, or remove the improper installation,
3141 improvement, or use.

3142 (2) A school district is subject to a county's land use [~~regulations under this chapter]~~
3143 ordinances, except that a county may not:

3144 (a) impose requirements for landscaping, fencing, aesthetic considerations,
3145 construction methods or materials, building codes, building use for educational purposes, or the
3146 placement or use of temporary classroom facilities on school property;

3147 (b) require a school district to participate in the cost of any roadway or sidewalk not
3148 reasonably necessary for the safety of school children and not located on or contiguous to
3149 school property, unless the roadway or sidewalk is required to connect an otherwise isolated
3150 school site to an existing roadway;

3151 (c) require a district to pay fees not authorized by this section;

3152 (d) provide for inspection of school construction or assess a fee or other charges for
3153 inspection, unless the school district is unable to provide for inspection by an inspector, other
3154 than the project architect or contractor, who is qualified under criteria established by the state
3155 superintendent;

3156 (e) require a school district to pay any impact fee for an improvement project that is

3157 not reasonably related to the impact of the project upon the need that the improvement is to
3158 address; or

3159 (f) impose regulations upon the location of a project except as necessary to avoid
3160 unreasonable risks to health or safety.

3161 (3) Subject to Section 53A-20-108, a school district shall coordinate the siting of a new
3162 school with the county in which the school is to be located, to avoid or mitigate existing and
3163 potential traffic hazards to maximize school safety.

3164 Section 93. Section ~~17-27a-306~~, which is renumbered from Section 17-27-200.5 is
3165 renumbered and amended to read:

3166 ~~[17-27-200.5].~~ **17-27a-306. Townships.**

3167 ~~[(1) As used in this part:]~~

3168 ~~[(a) "Township" means a contiguous, geographically defined portion of the~~
3169 ~~unincorporated area of a county, established under this part or reconstituted or reinstated under~~
3170 ~~Subsection 17-27-200.5(2)(e) of this part, with planning and zoning functions as exercised~~
3171 ~~through the township planning commission, as provided in this part, but with no legal or~~
3172 ~~political identity separate from the county and no taxing authority, except that "township"~~
3173 ~~means a former township under Chapter 308, Laws of Utah 1996, where the context so~~
3174 ~~indicates.]~~

3175 ~~[(b) "Unincorporated" means not within a municipality.]~~

3176 ~~[(2)]~~ (1) (a) (i) Subject to Subsection ~~[(2)]~~ (1)(a)(ii), a county legislative body may
3177 enact an ordinance establishing a township within the unincorporated county or dividing the
3178 unincorporated county into townships.

3179 (ii) Before enacting an ordinance under Subsection ~~[(2)]~~ (1)(a)(i), the county legislative
3180 body shall, after providing reasonable advance notice, hold a public hearing on the proposal to
3181 establish a township or to divide the unincorporated county into townships.

3182 (b) If 25% of the private real property owners in a contiguous area of the
3183 unincorporated county petition the county legislative body to establish a township for that area,
3184 the county legislative body shall:

3185 (i) hold a public hearing to discuss the petition;

3186 (ii) at least one week before the public hearing, publish notice of the petition and the

3187 time, date, and place of the public hearing at least once in a newspaper of general circulation in

3188 the county; and

3189 (iii) at the public hearing, consider oral and written testimony from the public and vote
3190 on the question of whether or not to establish a township.

3191 (c) If the county legislative body establishes a township pursuant to a petition, the
3192 members of the township planning commission shall be appointed as provided in Subsection
3193 [~~17-27-201~~] 17-27a-301(3)(b) to perform the duties established in this part for the township.

3194 (d) Except as provided in Subsection [~~2~~] (1)(e), each township shall contain:

3195 (i) in a county of the first, second, or third class:

3196 (A) at least 20% but not more than 80% of:

3197 (I) the total private land area in the unincorporated county; or

3198 (II) the total value of locally assessed taxable property in the unincorporated county; or

3199 (B) at least 5% of the total population of the unincorporated county; or

3200 (ii) in a county of the fourth, fifth, or sixth class:

3201 (A) at least 20% but not more than 80% of:

3202 (I) the total private land area in the unincorporated county; or

3203 (II) the total value of locally assessed taxable property in the unincorporated county;

3204 and

3205 (B) at least 25% of the total population of the unincorporated county.

3206 (e) (i) (A) A township that was dissolved under Chapter 389, Laws of Utah 1997, is
3207 reinstated as a township under this part with the same boundaries and name as before the
3208 dissolution, if the former township consisted of a single, contiguous land area.

3209 (B) Notwithstanding Subsection [~~2~~] (1)(e)(i)(A), a county legislative body may enact
3210 an ordinance establishing as a township under this part a former township that was dissolved
3211 under Chapter 389, Laws of Utah 1997, even though the former township does not qualify to be
3212 reinstated under Subsection [~~2~~] (1)(e)(i)(A).

3213 (C) A township reinstated under Subsection [~~2~~] (1)(e)(i)(A) or established under
3214 Subsection [~~2~~] (1)(e)(i)(B) shall be subject to the provisions of this part.

3215 (ii) Each planning district established under Chapter 225, Laws of Utah 1995, and each
3216 township planning district established under Chapter 389, Laws of Utah 1997, shall continue in
3217 existence as a township, subject to the provisions of this part.

3218 (f) (i) After May 1, 2002, the legislative body of each county in which a township that

3219 has been reconstituted under Chapter 389, Laws of Utah 1997, or reinstated under Subsection
3220 [~~(2)~~] (1)(e)(i) is located shall review the township and determine whether its continued
3221 existence is advisable.

3222 (ii) In conducting the review required under Subsection [~~(2)~~] (1)(f)(i), the county
3223 legislative body shall hold a public hearing with reasonable, advance, published notice of the
3224 hearing and the purpose of the hearing.

3225 (iii) Each township that has been reconstituted under Chapter 389, Laws of Utah 1997,
3226 or reinstated or established under Subsection [~~(2)~~] (1)(e)(i) and its planning commission shall
3227 continue in effect, unless, within 90 days after conducting the review and public hearing
3228 required under Subsections [~~(2)~~] (1)(f)(i) and (ii), the county legislative body by ordinance
3229 dissolves the township and its planning commission.

3230 (g) A township established under this section on or after May 5, 1997, may use the
3231 word "township" in its name.

3232 [~~(3)~~] (2) (a) If the county legislative body establishes a township without having
3233 received a petition, the county legislative body may:

3234 (i) assign to the countywide planning commission the duties established in this part that
3235 would have been assumed by a township planning commission designated under Subsection
3236 [~~(3)~~] (2)(a)(ii); or

3237 (ii) designate a planning commission for the township.

3238 (b) (i) If the county legislative body fails to designate a planning commission for a
3239 township, 40% of the private real property owners in the area proposed to be included in the
3240 township, as shown by the last county assessment roll, may petition the county legislative body
3241 to designate and appoint a planning commission for the township.

3242 (ii) If the county legislative body determines that the petition is validly signed by 40%
3243 of the private real property owners in the township, as shown by the last county assessment
3244 roll, it shall designate and appoint a planning commission for the township.

3245 [~~(4)~~] (3) (a) Except as provided in Subsection [~~(2)~~] (1)(f)(iii), a county legislative body
3246 may dissolve township planning commissions created under the authority of this section only
3247 by following the procedures and requirements of this Subsection [~~(4)~~] (3).

3248 (b) If 20% of the private real property owners in the county petition the county
3249 legislative body to dissolve township planning commissions and to appoint a countywide

3250 planning commission, the county legislative body shall:

3251 (i) hold a public hearing to discuss the petition;

3252 (ii) at least one week before the public hearing, publish notice of the petition and the
3253 time, date, and place of the public hearing at least once in a newspaper of general circulation in
3254 the county; and

3255 (iii) at the public hearing, consider oral and written testimony from the public and vote
3256 on the question of whether or not to dissolve township planning commissions and to appoint a
3257 countywide planning commission.

3258 (c) (i) If the county legislative body fails to dissolve township planning commissions
3259 and to appoint a countywide planning commission when petitioned to do so by private real
3260 property owners under this subsection, 40% of private real property owners in the county, as
3261 shown by the last county assessment roll, may petition the county legislative body to dissolve
3262 the township planning commissions and to appoint a countywide planning commission.

3263 (ii) If the county legislative body determines that the petition is validly signed by 40%
3264 of private real property owners in the township, as shown by the last county assessment roll, it
3265 shall dissolve the township planning commissions and appoint a countywide planning
3266 commission.

3267 Section 94. Section **17-27a-307**, which is renumbered from Section 17-27-206 is
3268 renumbered and amended to read:

3269 ~~[17-27-206]~~. **17-27a-307. Planning and zoning board dissolved.**

3270 Except as provided in Subsection ~~[17-27-201(3)]~~ 17-27a-306(1)(f), the planning and
3271 zoning board of each township formed before May 5, 1997, under Chapter 308, Laws of Utah
3272 1996, is dissolved.

3273 Section 95. Section **17-27a-401**, which is renumbered from Section 17-27-301 is
3274 renumbered and amended to read:

3275 **Part 4. General Plan**

3276 ~~[17-27-301]~~. **17-27a-401. General plan required -- Content -- Provisions**
3277 **related to radioactive waste facility.**

3278 (1) In order to accomplish the purposes ~~[set forth in]~~ of this chapter, each county shall
3279 prepare and adopt a comprehensive, long-range general plan for:

3280 (a) ~~[the]~~ present and future needs of the county; and

3281 (b) ~~[the]~~ growth and development of all or any part of the land within the ~~[county or~~
3282 ~~any part of the county, including uses of land for urbanization, trade, industry, residential,~~
3283 ~~agricultural, wildlife habitat, and other purposes]~~ unincorporated portions of the county.

3284 (2) The plan may provide for:

3285 (a) health, general welfare, safety, energy conservation, transportation, prosperity, civic
3286 activities, aesthetics, and recreational, educational, and cultural opportunities;

3287 (b) the reduction of the waste of physical, financial, or human resources that result
3288 from either excessive congestion or excessive scattering of population;

3289 (c) the efficient and economical use, conservation, and production of the supply of:

3290 (i) food and water; and

3291 (ii) drainage, sanitary, and other facilities and resources;

3292 (d) the use of energy conservation and solar and renewable energy resources;

3293 (e) the protection of urban development;

3294 (f) the protection or promotion of moderate income housing;

3295 ~~[(f)]~~ (g) the protection and promotion of air quality;

3296 ~~[(g)]~~ (h) historic preservation;

3297 ~~[(h)]~~ (i) identifying future uses of land that are likely to require an expansion or
3298 significant modification of services or facilities provided by ~~[affected entities and specified~~
3299 ~~public utilities, as those terms are defined in Section 17-27-301.5; and]~~ each affected entity;
3300 and

3301 ~~[(i)]~~ (j) an official map~~[, pursuant to Title 72, Chapter 5, Part 4, Transportation~~
3302 ~~Corridor Preservation].~~

3303 (3) (a) The plan shall include specific provisions related to any areas within, or
3304 partially within, the exterior boundaries of the county, or contiguous to the boundaries of a
3305 county, which are proposed for the siting of a storage facility or transfer facility for the
3306 placement of high-level nuclear waste or greater than class C radioactive nuclear waste, as
3307 these wastes are defined in Section 19-3-303. The provisions shall address the effects of the
3308 proposed site upon the health and general welfare of citizens of the state, and shall provide:

3309 (i) the information identified in Section 19-3-305;

3310 (ii) information supported by credible studies that demonstrates that the provisions of
3311 Subsection 19-3-307(2) have been satisfied; and

3312 (iii) specific measures to mitigate the effects of high-level nuclear waste and greater
3313 than class C radioactive waste and guarantee the health and safety of the citizens of the state.

3314 (b) A county may, in lieu of complying with Subsection (3)(a), adopt an ordinance
3315 indicating that all proposals for the siting of a storage facility or transfer facility for the
3316 placement of high-level nuclear waste or greater than class C radioactive waste wholly or
3317 partially within the county are rejected.

3318 (c) A county may adopt the ordinance listed in Subsection (3)(b) at any time.

3319 (d) The county shall send a certified copy of the ordinance under Subsection (3)(b) to
3320 the executive director of the Department of Environmental Quality by certified mail within 30
3321 days of enactment.

3322 (e) If a county repeals an ordinance adopted pursuant to Subsection (3)(b) the county
3323 shall:

3324 (i) comply with Subsection (3)(a) as soon as reasonably possible; and

3325 (ii) send a certified copy of the repeal to the executive director of the Department of
3326 Environmental Quality by certified mail within 30 days after the repeal.

3327 (4) The plan may define the county's local customs, local culture, and the components
3328 necessary for the county's economic stability.

3329 (5) ~~[The]~~ Subject to Subsection 17-27a-403(2), the county may determine the
3330 comprehensiveness, extent, and format of the general plan.

3331 Section 96. Section ~~17-27a-402~~, which is renumbered from Section 17-27-203 is
3332 renumbered and amended to read:

3333 ~~[17-27-203].~~ 17-27a-402. Information and technical assistance from the
3334 state.

3335 ~~[(1) A planning commission may obtain access to and use any data and information~~
3336 ~~held by the state or any of its agencies:]~~

3337 ~~[(a) that is classified "public"; and]~~

3338 ~~[(b) that is classified "protected" if the planning commission's use of the data is~~
3339 ~~lawfully authorized or if the data will be used for a purpose similar to the purpose for which it~~
3340 ~~was gathered.]~~

3341 ~~[(2)]~~ Each state official, department, and agency shall:

3342 ~~[(a) make]~~ (1) promptly deliver any data and information requested by ~~[the planning~~

3343 ~~commission available if authorized under the requirements of this section; and] a county,~~
 3344 unless the disclosure is prohibited by Title 63, Chapter 2, Government Records Access and
 3345 Management Act; and

3346 ~~[(b)]~~ (2) furnish any other technical assistance and advice that they have available to
 3347 ~~[planning commissions]~~ the county without additional cost to the county.

3348 Section 97. Section **17-27a-403**, which is renumbered from Section 17-27-302 is
 3349 renumbered and amended to read:

3350 ~~[17-27-302].~~ **17-27a-403. Plan preparation.**

3351 ~~[(1)(a) Subject to Section 17-27-301.5, the]~~

3352 (1) (a) The planning commission shall provide notice, as provided in Section
 3353 17-27a-203, of its intent to make a recommendation to the county legislative body for a general
 3354 plan or a comprehensive general plan amendment when the planning commission initiates the
 3355 process of preparing its recommendation.

3356 (b) The planning commission shall make and recommend to the legislative body a
 3357 proposed general plan for the unincorporated area within the county.

3358 ~~[(b)]~~ (c) (i) The plan may include planning for incorporated areas if, in the planning
 3359 commission's judgment, they are related to the planning of the unincorporated territory or of
 3360 the county as a whole.

3361 (ii) Elements of the county plan that address incorporated areas are not an official plan
 3362 or part of a municipal plan for any municipality, unless it is ~~[adopted]~~ recommended by the
 3363 municipal planning commission and adopted by the governing body of the municipality.

3364 (2) ~~[The]~~ (a) At a minimum, the proposed general plan, with the accompanying maps,
 3365 ~~[plats,]~~ charts, and descriptive and explanatory matter, shall ~~[show]~~ include the planning
 3366 commission's recommendations for the ~~[development of the territory covered by the plan, and~~
 3367 ~~may include, among other things]~~ following plan elements:

3368 ~~[(a)]~~ (i) a land use element that:

3369 ~~[(i)]~~ (A) designates the long-term goals and the proposed extent, general distribution,
 3370 and location ~~[and extent of uses]~~ of land for housing, business, industry, agriculture, recreation,
 3371 education, public buildings and grounds, open space, and other categories of public and private
 3372 uses of land as appropriate; and

3373 ~~[(i)]~~ (B) may include a statement of the projections for and standards of population

3374 density and building intensity recommended for the various land use categories covered by the
3375 plan;

3376 ~~[(b)]~~ (ii) a transportation and traffic circulation element consisting of the general
3377 location and extent of existing and proposed freeways, arterial and collector streets, mass
3378 transit, and any other modes of transportation that ~~[are]~~ the planning commission considers
3379 appropriate, all correlated with the population projections and the proposed land use element of
3380 the general plan; and

3381 (iii) an estimate of the need for the development of additional moderate income
3382 housing within the unincorporated area of the county, and a plan to provide a realistic
3383 opportunity to meet estimated needs for additional moderate income housing if long-term
3384 projections for land use and development occur.

3385 (b) In drafting the moderate income housing element, the planning commission:

3386 (i) shall consider the Legislature's determination that counties should facilitate a
3387 reasonable opportunity for a variety of housing, including moderate income housing:

3388 (A) to meet the needs of people desiring to live there; and

3389 (B) to allow persons with moderate incomes to benefit from and fully participate in all
3390 aspects of neighborhood and community life; and

3391 (ii) may include an analysis of why the recommended means, techniques, or
3392 combination of means and techniques provide a realistic opportunity for the development of
3393 moderate income housing within the planning horizon, which means or techniques may include
3394 a recommendation to:

3395 (A) rezone for densities necessary to assure the production of moderate income
3396 housing;

3397 (B) facilitate the rehabilitation or expansion of infrastructure that will encourage the
3398 construction of moderate income housing;

3399 (C) encourage the rehabilitation of existing uninhabitable housing stock into moderate
3400 income housing;

3401 (D) consider general fund subsidies to waive construction related fees that are
3402 otherwise generally imposed by the county;

3403 (E) consider utilization of state or federal funds or tax incentives to promote the
3404 construction of moderate income housing;

3405 (F) consider utilization of programs offered by the Utah Housing Corporation within
3406 that agency's funding capacity; and

3407 (G) consider utilization of affordable housing programs administered by the
3408 Department of Community and Economic Development.

3409 (3) The proposed general plan may include:

3410 ~~(e)~~ (a) an environmental element that addresses:

3411 (i) the protection, conservation, development, and use of natural resources, including
3412 the quality of air, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals,
3413 and other natural resources; and

3414 (ii) the reclamation of land, flood control, prevention and control of the pollution of
3415 streams and other waters, regulation of the use of land on hillsides, stream channels and other
3416 environmentally sensitive areas, the prevention, control, and correction of the erosion of soils,
3417 protection of watersheds and wetlands, and the mapping of known geologic hazards;

3418 ~~(b)~~ (b) a public services and facilities element showing general plans for sewage,
3419 water, waste disposal, drainage, ~~local~~ public utilities, rights-of-way, easements, and facilities
3420 for them, police and fire protection, and other public services;

3421 ~~(c)~~ (c) a rehabilitation, redevelopment, and conservation element consisting of plans
3422 and programs for:

3423 (i) historic preservation; and

3424 (ii) the diminution or elimination of blight; and ~~for~~

3425 (iii) redevelopment of land, including housing sites, business and industrial sites, and
3426 public building sites;

3427 ~~(d)~~ (d) an economic element composed of appropriate studies and forecasts, as well as
3428 an economic development plan ~~that~~, which may include review of ~~county~~ existing and
3429 projected county revenue and expenditures, revenue sources, identification of ~~base~~ basic and
3430 ~~residential~~ secondary industry, primary and secondary market areas, employment, and retail
3431 sales activity;

3432 ~~(e)~~ (e) recommendations for implementing all or any portion of the general plan,
3433 including the use of ~~zoning ordinances, subdivision~~ land use ordinances, capital improvement
3434 plans, ~~and~~ community development and promotion, and any other appropriate ~~actions~~
3435 action;

3436 ~~[(h)]~~ (f) provisions addressing any of the matters listed in Subsection ~~[17-27-301]~~
3437 17-27a-401(2); and

3438 ~~[(i)]~~ (g) any other ~~[elements that]~~ element the county considers appropriate.

3439 Section 98. Section **17-27a-404**, which is renumbered from Section 17-27-303 is
3440 renumbered and amended to read:

3441 ~~[17-27-303]~~. **17-27a-404. Public hearing by planning commission on**
3442 **proposed general plan or amendment -- Notice -- Revisions to general plan or amendment**
3443 **-- Adoption or rejection by legislative body..**

3444 (1) (a) After completing its recommendation for a proposed general plan ~~[for all or part~~
3445 ~~of the area within the county]~~, or proposal to amend the general plan, the planning commission
3446 shall schedule and hold a public hearing on the proposed plan or amendment.

3447 (b) The planning commission shall provide ~~[reasonable]~~ notice of the public hearing ~~[at~~
3448 ~~least 14 days before the date of the hearing]~~, as required by Section 17-27a-204.

3449 (c) After the public hearing, the planning commission may ~~[make changes to]~~ modify
3450 the proposed general plan or amendment.

3451 (2) The planning commission shall ~~[then]~~ forward the proposed general plan or
3452 amendment to the legislative body.

3453 ~~[(3)(a) The legislative body shall hold a public hearing on the proposed general plan~~
3454 ~~recommended to it by the planning commission.]~~

3455 ~~[(b) The]~~ (3) (a) As provided by local ordinance and by Section 17-27a-204, the
3456 legislative body shall provide ~~[reasonable]~~ notice of ~~[the public hearing at least 14 days before~~
3457 ~~the date of the hearing.]~~ its intent to consider the general plan proposal.

3458 ~~[(4)(a)]~~ (b) (i) In addition to the requirements of Subsections (1), (2), and (3)~~(a)~~, the
3459 legislative body shall hold a public hearing in Salt Lake City on provisions of the proposed
3460 county plan regarding Subsection ~~[17-27-301]~~ 17-27a-401(3). The hearing procedure shall
3461 comply with this Subsection ~~[(4)]~~ (3)(b).

3462 (ii) The hearing format shall allow adequate time for public comment at the actual
3463 public hearing, and shall also allow for public comment in writing to be submitted to the
3464 legislative body for not fewer than 90 days after the date of the public hearing.

3465 ~~[(b)]~~ (c) (i) The legislative body shall give notice of the hearing in accordance with this
3466 Subsection ~~[(4)]~~ (3) when the proposed plan provisions required by Subsection ~~[17-27-301]~~

3467 17-27a-401(3) are complete.

3468 (ii) Direct notice of the hearing shall be given, in writing, to the governor, members of
3469 the state Legislature, executive director of the Department of Environmental Quality, the state
3470 planning coordinator, the Resource Development Coordinating Committee, and any other
3471 citizens or entities who specifically request notice in writing.

3472 (iii) Public notice shall be given by publication in at least one major Utah newspaper
3473 having broad general circulation in the state, and also in at least one Utah newspaper having a
3474 general circulation focused mainly on the county where the proposed high-level nuclear waste
3475 or greater than class C radioactive waste site is to be located.

3476 (iv) The notice in these newspapers shall be published not fewer than 180 days prior to
3477 the date of the hearing to be held under this Subsection [~~(4)~~] (3), to allow reasonable time for
3478 interested parties and the state to evaluate the information regarding the provisions of
3479 Subsection [~~17-27-301~~] 17-27a-401(3).

3480 [~~(5)~~] (4) (a) After [~~a~~] the public hearing required under this section, the legislative body
3481 may make any [~~modifications~~] revisions to the proposed general plan that it considers
3482 appropriate.

3483 (b) The legislative body shall respond in writing and in a substantive manner to all
3484 those providing comments as a result of the hearing required by Subsection [~~(4)~~] (3).

3485 [~~(6)~~] (5) (a) The county legislative body may [~~not~~] adopt or reject the proposed general
3486 plan [~~without~~] or amendment [~~;~~ (b) ~~amend the~~] either as proposed [~~general plan and adopt or~~
3487 ~~reject it as amended; or (c) reject~~] by the planning commission or after making any revision the
3488 county legislative body considers appropriate.

3489 (b) If the county legislative body rejects the proposed general plan [~~;~~] or amendment, it
3490 may provide suggestions to the planning commission for its consideration.

3491 [~~(7)~~] (a) ~~The general plan is an advisory guide for land use decisions, except for the~~
3492 ~~provision required by Subsection 17-27-301(3), which the legislative body shall adopt.]~~

3493 [~~(b)~~] ~~The legislative body may adopt an ordinance mandating compliance with the~~
3494 ~~general plan, and shall adopt an ordinance requiring compliance with all provisions of~~
3495 ~~Subsection 17-27-301(3).]~~

3496 (6) The legislative body shall adopt:

3497 (a) a land use element as provided in Subsection 17-27a-403(2)(a)(i);

3498 (b) a transportation and traffic circulation element as provided in Subsection
3499 17-27a-403(2)(a)(ii); and

3500 (c) after considering the factors included in Subsection 17-27a-403(2)(b), a plan to
3501 provide a realistic opportunity to meet estimated needs for additional moderate income housing
3502 if long-term projections for land use and development occur.

3503 Section 99. Section **17-27a-405** is enacted to read:

3504 **17-27a-405. Effect of general plan.**

3505 (1) Except for the mandatory provisions in Subsection 17-27a-401(3)(b) and Section
3506 17-27a-406, the general plan is an advisory guide for land use decisions, the impact of which
3507 shall be determined by ordinance.

3508 (2) The legislative body may adopt an ordinance mandating compliance with the
3509 general plan, and shall adopt an ordinance requiring compliance with all provisions of
3510 Subsection 17-27a-401(3)(b).

3511 Section 100. Section **17-27a-406**, which is renumbered from Section 17-27-305 is
3512 renumbered and amended to read:

3513 ~~[17-27-305].~~ **17-27a-406. Public uses to conform to general plan.**

3514 After the legislative body has adopted a [~~general plan or any amendments to the~~]
3515 general plan, no street, park, or other public way, ground, place, or space, no publicly owned
3516 building or structure, and no public utility, whether publicly or privately owned, may be
3517 constructed or authorized until and unless~~[-(1)]~~ it conforms to the current general plan~~[-or].~~

3518 ~~[(2) it has been considered by the planning commission and, after receiving the advice~~
3519 ~~of the planning commission, the legislative body approves it as an amendment to the general~~
3520 ~~plan.]~~

3521 Section 101. Section **17-27a-407**, which is renumbered from Section 17-27-306 is
3522 renumbered and amended to read:

3523 ~~[17-27-306].~~ **17-27a-407. Effect of official maps.**

3524 (1) Counties may adopt an official map [~~in accordance with the provisions of Title 72,~~
3525 ~~Chapter 5, Part 4, Transportation Corridor Preservation].~~

3526 (2) (a) An official map does not:

3527 (i) require a landowner to dedicate and construct a street as a condition of development
3528 approval, except under circumstances provided in Subsection (2)(b)(iii); or

3529 (ii) require a county to immediately acquire property it has designated for eventual use
3530 as a public street.

3531 (b) This section does not prohibit a county from:

3532 (i) ~~[requiring a landowner to take into account]~~ recommending that an applicant
3533 consider and accommodate the location of the proposed streets in the planning of a
3534 development proposal in a manner that is consistent with Section 17-27a-507;

3535 (ii) acquiring the property through purchase, gift, voluntary dedication, or eminent
3536 domain; or

3537 (iii) requiring the dedication and improvement of a street if the street is found
3538 necessary by the county because of a proposed development and if the dedication and
3539 improvement is consistent with Section 17-27a-507.

3540 ~~[(3) An official map may not be used to unconstitutionally prohibit the development of~~
3541 ~~property designated for eventual use as a public street.]~~

3542 ~~[(4) An adopted official map shall be available for public inspection upon request.]~~

3543 Section 102. Section **17-27a-408**, which is renumbered from Section 17-27-307 is
3544 renumbered and amended to read:

3545 ~~[17-27-307].~~ **17-27a-408. Biennial review of moderate income housing**
3546 **element.**

3547 ~~[(1) The availability of moderate income housing is an issue of statewide concern. To~~
3548 ~~this end:]~~

3549 ~~[(a) counties should afford a reasonable opportunity for a variety of housing, including~~
3550 ~~moderate income housing, to meet the needs of people desiring to live there; and]~~

3551 ~~[(b) moderate income housing should be located in all areas of a community to allow~~
3552 ~~persons with moderate incomes to benefit from and to fully participate in all aspects of~~
3553 ~~neighborhood and community life.]~~

3554 ~~[(2) As used in this section:]~~

3555 ~~[(a) "Moderate income housing" means housing occupied or reserved for occupancy by~~
3556 ~~households with a gross household income equal to or less than 80% of the median gross~~
3557 ~~income of the county statistical area for households of the same size.]~~

3558 ~~[(b) "Plan for moderate income housing" or "plan" means a written document adopted~~
3559 ~~by a county legislative body that includes, but is not limited to:]~~

3560 [~~(i) an estimate of the existing supply of moderate income housing located within the~~
3561 ~~county;~~]

3562 [~~(ii) an estimate of the need for moderate income housing in that county for the next~~
3563 ~~five years as revised biennially;~~]

3564 [~~(iii) a survey of total residential zoning;~~]

3565 [~~(iv) an evaluation of how existing zoning densities affect opportunities for moderate~~
3566 ~~income housing; and]~~

3567 [~~(v) a description of the county's program to encourage an adequate supply of~~
3568 ~~moderate income housing.]~~

3569 [~~(3) Before December 31, 1998, each county legislative body shall, as part of its~~
3570 ~~general plan, adopt a plan for moderate income housing within the unincorporated areas of that~~
3571 ~~county.]~~

3572 [~~(4) A plan may provide for moderate income housing by any means or combination of~~
3573 ~~techniques which provide a realistic opportunity to meet estimated needs. The plan may include~~
3574 ~~an analysis of why the means or techniques selected provide a realistic opportunity to meet the~~
3575 ~~objectives of this section. Such techniques may include]:~~

3576 [~~(a) rezoning for densities necessary to assure the economic viability of inclusionary~~
3577 ~~developments, either through mandatory set asides or density bonuses;]~~

3578 [~~(b) infrastructure expansion and rehabilitation that will facilitate the construction of~~
3579 ~~moderate income housing;]~~

3580 [~~(c) rehabilitation of existing uninhabitable housing stock;]~~

3581 [~~(d) consideration of waiving construction related fees generally imposed by the~~
3582 ~~county;]~~

3583 [~~(e) utilization of state or federal funds or tax incentives to promote the construction of~~
3584 ~~moderate income housing;]~~

3585 [~~(f) utilization of programs offered by the Utah Housing Corporation within that~~
3586 ~~agency's funding capacity; and]~~

3587 [~~(g) utilization of affordable housing programs administered by the Department of~~
3588 ~~Community and Economic Development.]~~

3589 [~~(5) (a) After adoption of a plan for moderate income housing under Subsection (3);~~
3590 ~~the]~~

3591 (1) The legislative body of each county with a population over 25,000 shall biennially:

3592 [(i)] (a) review the moderate income housing plan element of its general plan and its
3593 implementation; and

3594 [(ii)] (b) prepare a report setting forth the findings of the review.

3595 [(b)] (2) Each report under Subsection [(5)(a)(ii)] (1) shall include a description of:

3596 [(i)] (a) efforts made by the county to reduce, mitigate, or eliminate local regulatory
3597 barriers to moderate income housing;

3598 [(ii)] (b) actions taken by the county to encourage preservation of existing moderate
3599 income housing and development of new moderate income housing;

3600 [(iii)] (c) progress made within the county to provide moderate income housing, as
3601 measured by permits issued for new units of moderate income housing; and

3602 [(iv)] (d) efforts made by the county to coordinate moderate income housing plans and
3603 actions with neighboring counties and municipalities.

3604 [(c)] (3) The legislative body of each county with a population over 25,000 shall send a
3605 copy of the report under Subsection [(5)(a)(ii)] (1) to the Department of Community and
3606 Economic Development and the association of governments in which the county is located.

3607 [(6)] (4) In a civil action seeking enforcement or claiming a violation of this section or
3608 of Subsection 17-27a-404(6)(c), a plaintiff may not recover damages but may be awarded only
3609 injunctive or other equitable relief [only].

3610 Section 103. Section **17-27a-409**, which is renumbered from Section 17-27-308 is
3611 renumbered and amended to read:

3612 **[17-27-308]. 17-27a-409. State to indemnify county regarding refusal to**
3613 **site nuclear waste -- Terms and conditions.**

3614 If a county is challenged in a court of law regarding its decision to deny siting of a
3615 storage or transfer facility for the placement of high-level nuclear waste or greater than class C
3616 radioactive waste or its refusal to provide municipal-type services regarding the operation of
3617 the storage or transfer facility, the state shall indemnify, defend, and hold the county harmless
3618 from any claims or damages, including court costs and attorney fees that are assessed as a result
3619 of the county's action, if:

3620 (1) the county has complied with the provisions of Subsection [~~17-27-301~~]
3621 7-27a-401(3)(b) by adopting an ordinance rejecting all proposals for the siting of a storage or

3622 transfer facility for the placement of high-level nuclear waste or greater than class C
3623 radioactive waste wholly or partially within the boundaries of the county;

3624 (2) the county has complied with Subsection 17-34-1(3) regarding refusal to provide
3625 municipal-type services; and

3626 (3) the court challenge against the county addresses the county's actions in compliance
3627 with Subsection ~~[17-27-301]~~ 17-27a-401(3)(b) or ~~[Subsection]~~ 17-34-1(3).

3628 Section 104. Section 17-27a-501, which is renumbered from Section 17-27-401 is
3629 renumbered and amended to read:

3630 **Part 5. Land Use Ordinances**

3631 ~~[17-27-401].~~ **17-27a-501. General powers.**

3632 The legislative body may enact ~~[a zoning ordinance establishing regulations for land~~
3633 ~~use and development that furthers the intent of this chapter]~~ land use ordinances and a zoning
3634 map.

3635 Section 105. Section 17-27a-502, which is renumbered from Section 17-27-402 is
3636 renumbered and amended to read:

3637 ~~[17-27-402].~~ **17-27a-502. Preparation and adoption.**

3638 (1) The planning commission shall:

3639 (a) provide notice as required by Subsection 17-27a-205(1)(a);

3640 (b) hold a public hearing on a proposed land use ordinance or zoning map; and

3641 (c) prepare and recommend to the legislative body a proposed [zoning ordinance,
3642 ~~including both the full text of the zoning ordinance and maps, that represents the commission's~~
3643 ~~recommendations for zoning]~~ land use ordinance or ordinances and zoning map that represent
3644 the planning commission's recommendation for regulating the use and development of land
3645 within all or any part of the unincorporated area [within] of the county.

3646 (2) ~~[(a)]~~ The county legislative body shall ~~[hold a public hearing on the]~~ consider each
3647 proposed [zoning] land use ordinance and zoning map recommended to it by the planning
3648 commission~~[-(b) The legislative body shall provide reasonable notice of the public hearing at~~
3649 ~~least 14 days before the date of the hearing. (3) After the public hearing;], and, after providing~~
3650 notice as required by Subsection 17-27a-205(1)(b) and holding a public meeting, the legislative
3651 body may~~[-(a)]~~ adopt or reject the [zoning] proposed ordinance or map either as proposed[-(b)-
3652 amend the zoning ordinance and adopt or reject the zoning ordinance as amended; or (c) reject

3653 ~~the ordinance]~~ by the planning commission or after making any revision the county legislative
 3654 body considers appropriate.

3655 Section 106. Section **17-27a-503**, which is renumbered from Section 17-27-403 is
 3656 renumbered and amended to read:

3657 ~~[17-27-403].~~ **17-27a-503. Amendments.**

3658 (1) ~~[(a)]~~ The legislative body may amend:

3659 ~~[(i)]~~ (a) the number, shape, boundaries, or area of any zoning district;

3660 ~~[(ii)]~~ (b) any regulation of or within the zoning district; or

3661 ~~[(iii)]~~ (c) any other provision of ~~[the zoning]~~ a land use ordinance.

3662 ~~[(b)]~~ (2) The legislative body may not make any amendment authorized by this
 3663 subsection unless the amendment was proposed by the planning commission or is first
 3664 submitted to the planning commission for its ~~[approval, disapproval, or recommendations]~~
 3665 recommendation.

3666 ~~[(2)]~~ (3) The legislative body shall comply with the procedure specified in Section
 3667 ~~[17-27-402]~~ 17-27a-502 in preparing and adopting an amendment to ~~[the zoning]~~ a land use
 3668 ordinance or [the] a zoning map.

3669 Section 107. Section **17-27a-504**, which is renumbered from Section 17-27-404 is
 3670 renumbered and amended to read:

3671 ~~[17-27-404].~~ **17-27a-504. Temporary land use regulations.**

3672 (1) (a) A county legislative body may, without ~~[a public hearing]~~ prior consideration of
 3673 or recommendation from the planning commission, enact an ordinance establishing a
 3674 temporary ~~[zoning]~~ land use regulation for any part or all of the area within the county if:

3675 (i) the legislative body makes a finding of compelling, countervailing public interest;
 3676 or

3677 (ii) the area is ~~[unzoned]~~ unregulated.

3678 (b) A temporary ~~[zoning]~~ land use regulation under Subsection (1)(a) may prohibit~~;~~
 3679 ~~restrict,~~ or regulate the erection, construction, reconstruction, or alteration of any building or
 3680 structure or any subdivision approval.

3681 (c) A temporary ~~[zoning]~~ land use regulation under Subsection (1)(a) may not impose
 3682 an impact fee or other financial requirement on building or development.

3683 (2) The ~~[county]~~ legislative body shall establish a period of limited effect for the

3684 [temporary] ordinance not to exceed six months.

3685 (3) (a) A [county] legislative body may, without [~~a public hearing~~] prior planning
3686 commission consideration or recommendation, enact an ordinance establishing a temporary
3687 [zoning] land use regulation prohibiting construction, subdivision approval, and other
3688 development activities within an area that is the subject of an Environmental Impact Statement
3689 or a Major Investment Study examining the area as a proposed highway or transportation
3690 corridor.

3691 (b) A [zoning] regulation under Subsection (3)(a):

3692 (i) may not exceed six months in duration;

3693 (ii) may be renewed, if requested by the [~~Utah~~] Transportation Commission created
3694 under Section 72-1-301, for up to two additional six-month periods by ordinance enacted
3695 before the expiration of the previous [zoning] regulation; and

3696 (iii) notwithstanding Subsections (3)(b)(i) and (ii), is effective only as long as the
3697 Environmental Impact Statement or Major Investment Study is in progress.

3698 Section 108. Section **17-27a-505**, which is renumbered from Section 17-27-405 is
3699 renumbered and amended to read:

3700 [~~17-27-405~~]. **17-27a-505. Zoning districts.**

3701 (1) (a) The legislative body may divide the territory over which it has jurisdiction into
3702 zoning districts of a number, shape, and area that it considers appropriate to carry out the
3703 purposes of this chapter.

3704 (b) Within those zoning districts, the legislative body may regulate and restrict the
3705 erection, construction, reconstruction, alteration, repair, or use of buildings and structures, and
3706 the use of land.

3707 (2) The legislative body shall ensure that the regulations are uniform for each class or
3708 kind of buildings throughout each [~~district~~] zone, but the regulations in one [~~district~~] zone may
3709 differ from those in other [~~districts~~] zones.

3710 (3) (a) There is no minimum area or diversity of ownership requirement for a zone
3711 designation.

3712 (b) Neither the size of a zoning district nor the number of landowners within the
3713 district may be used as evidence of the illegality of a zoning district or of the invalidity of a
3714 county decision.

3715 Section 109. Section **17-27a-506**, which is renumbered from Section 17-27-406 is
3716 renumbered and amended to read:

3717 ~~[17-27-406].~~ **17-27a-506. Conditional uses.**

3718 ~~[(1) A zoning ordinance may contain provisions for administrative decisions relating~~
3719 ~~to]~~

3720 (1) A land use ordinance may include conditional uses [that may be allowed, allowed
3721 with conditions, or denied in designated zoning districts, based on] and provisions for
3722 conditional uses that require compliance with standards [and criteria] set forth in [the zoning
3723 ordinance for those uses] an applicable ordinance.

3724 (2) ~~(a) [Appeals of the approval or denial of a] A~~ conditional use ~~[permit shall be~~
3725 ~~decided by the board of adjustment, unless the county legislative body by ordinance designates~~
3726 ~~itself or another body to decide those appeals:]~~ shall be approved if reasonable conditions are
3727 proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the
3728 proposed use in accordance with applicable standards.

3729 (b) If the reasonably anticipated detrimental effects of a proposed conditional use
3730 cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to
3731 achieve compliance with applicable standards, the conditional use may be denied.

3732 Section 110. Section **17-27a-507** is enacted to read:

3733 **17-27a-507. Regulation of exactions.**

3734 A county may impose an exaction or exactions on development proposed in a land use
3735 application provided that:

3736 (1) an essential link exists between a legitimate governmental interest and each
3737 exaction; and

3738 (2) each exaction is roughly proportionate, both in nature and extent, to the impact of
3739 the proposed development.

3740 Section 111. Section **17-27a-508** is enacted to read:

3741 **17-27a-508. Land use approval standards and vested rights.**

3742 (1) (a) An applicant is entitled to approval of a land use application if the application
3743 conforms to the requirements of an applicable land use ordinance in effect when a complete
3744 application is submitted and all fees have been paid, unless:

3745 (i) the land use authority, on the record, finds that a compelling, countervailing public

3746 interest would be jeopardized by approving the application; or

3747 (ii) in the manner provided by local ordinance and before the application is submitted,
3748 the county has formally initiated proceedings to amend its ordinances in a manner that would
3749 prohibit approval of the application as submitted.

3750 (b) The county shall process an application without regard to proceedings initiated to
3751 amend the county's ordinances if:

3752 (i) 180 days have passed since the proceedings were initiated; and

3753 (ii) the proceedings have not resulted in an enactment that prohibits approval of the
3754 application as submitted.

3755 (c) An application for a land use approval is considered submitted and complete when
3756 the application is provided in a form that complies with the requirements of applicable
3757 ordinances and all applicable fees have been paid.

3758 (d) The continuing validity of an approval of a land use application is conditioned upon
3759 the applicant proceeding after approval to implement the approval with reasonable diligence.

3760 (2) A county is bound by the terms and standards of applicable land use ordinances and
3761 shall comply with mandatory provisions of those ordinances.

3762 Section 112. Section **17-27a-509**, which is renumbered from Section 17-27-106 is
3763 renumbered and amended to read:

3764 ~~[17-27-106].~~ **17-27a-509. Limit on plan check fees.**

3765 (1) A county may not impose or collect a fee for reviewing or approving the plans for a
3766 commercial or residential building that exceeds the lesser of:

3767 (a) the actual cost of performing the plan review; and

3768 (b) 65% of the amount the county charges for a building permit fee for that building.

3769 ~~[(2) (a) For purposes of this Subsection (2):]~~

3770 ~~[(i) "Identical plans" means building plans submitted to a county that:]~~

3771 ~~[(A) are substantially identical to building plans that were previously submitted to and~~
3772 ~~reviewed and approved by the county; and]~~

3773 ~~[(B) describe a building that is:]~~

3774 ~~[(f) located on land zoned the same as the land on which the building described in the~~
3775 ~~previously approved plans is located; and]~~

3776 ~~[(H) subject to the same geological and meteorological conditions and the same law as~~

3777 the building described in the previously approved plans.]

3778 [(ii) "Nominal fee" means a fee that reasonably reimburses a county only for time spent
3779 and expenses incurred in:]

3780 [(A) verifying that building plans are identical plans; and]

3781 [(B) reviewing and approving those minor aspects of identical plans that differ from
3782 the previously reviewed and approved building plans referred to in Subsection (2)(a)(i).]

3783 [(b)] (2) Subject to Subsection (1), a county may impose and collect only a nominal fee
3784 for reviewing and approving identical plans.

3785 Section 113. Section **17-27a-510**, which is renumbered from Section 17-27-407 is
3786 renumbered and amended to read:

3787 [~~17-27-407~~]. **17-27a-510. Nonconforming uses and noncomplying**
3788 **structures.**

3789 (1) (a) Except as provided in this section, a nonconforming use or a noncomplying
3790 structure may be continued by the present or by a future property owner.

3791 (b) A nonconforming use may be extended through the same building, provided no
3792 structural alteration of the building is proposed or made for the purpose of the extension.

3793 (c) For purposes of this Subsection (1), the addition of a solar energy device to a
3794 building is not a structural alteration.

3795 [~~(d) If any county acquires title to any property because of tax delinquency and the
3796 property is not redeemed as provided by law, the future use of the property shall conform with
3797 the existing provisions of the county ordinances equally applicable to other like properties
3798 within the district in which the property acquired by the county is located.]~~

3799 (2) The legislative body may provide [~~in any zoning ordinance or amendment~~] for:

3800 (a) the establishment, restoration, reconstruction, extension, alteration, expansion, or
3801 substitution of nonconforming uses upon the terms and conditions set forth in the [~~zoning~~] land
3802 use ordinance;

3803 (b) the termination of all nonconforming uses, except billboards, by providing a
3804 formula establishing a reasonable time period during which the owner can recover or amortize
3805 the amount of his investment in the nonconforming use, if any; and

3806 (c) the termination of [~~a billboard that is a nonconforming use by acquiring the~~
3807 ~~billboard and associated property rights through~~] a nonconforming use due to its abandonment.

3808 ~~[(i) gift;]~~
3809 ~~[(ii) purchase;]~~
3810 ~~[(iii) agreement;]~~
3811 ~~[(iv) exchange; or]~~
3812 ~~[(v) eminent domain.]~~
3813 ~~[(3)(a) A county is considered to have initiated the acquisition of a billboard structure~~
3814 ~~by eminent domain under Subsection (2)(c)(v) if the county prevents a billboard owner from:]~~
3815 ~~[(i) rebuilding, maintaining, repairing, or restoring a billboard structure that is damaged~~
3816 ~~by casualty, an act of God, or vandalism; or]~~
3817 ~~[(ii) except as provided in Subsection (3)(b), relocating or rebuilding a billboard~~
3818 ~~structure, or taking other measures, to correct a mistake in the placement or erection of a~~
3819 ~~billboard for which the county has issued a permit, if the proposed relocation, rebuilding, or~~
3820 ~~other measure is consistent with the intent of that permit.]~~
3821 ~~[(b) A county's denial of a billboard owner's request to relocate or rebuild a billboard~~
3822 ~~structure, or to take other measures, in order to correct a mistake in the placement or erection of~~
3823 ~~a billboard does not constitute the initiation of acquisition by eminent domain under Subsection~~
3824 ~~(3)(a) if the mistake in placement or erection of the billboard is determined by clear and~~
3825 ~~convincing evidence to have resulted from an intentionally false or misleading statement:]~~
3826 ~~[(i) by the billboard applicant in the application; and]~~
3827 ~~[(ii) regarding the placement or erection of the billboard.]~~
3828 ~~[(4) Notwithstanding Subsections (2) and (3), a county may remove a billboard without~~
3829 ~~providing compensation if:]~~
3830 ~~[(a) the county determines:]~~
3831 ~~[(i) by clear and convincing evidence that the applicant for a permit intentionally made~~
3832 ~~a false or misleading statement in the applicant's application regarding the placement or~~
3833 ~~erection of the billboard; or]~~
3834 ~~[(ii) by substantial evidence that the billboard:]~~
3835 ~~[(A) is structurally unsafe;]~~
3836 ~~[(B) is in an unreasonable state of repair; or]~~
3837 ~~[(C) has been abandoned for at least 12 months;]~~
3838 ~~[(b) the county notifies the owner in writing that the owner's billboard meets one or~~

3839 ~~more of the conditions listed in Subsections (4)(a)(i) and (ii);]~~
3840 ~~[(c) the owner fails to remedy the condition or conditions within:]~~
3841 ~~[(i) except as provided in Subsection (4)(c)(ii), 90 days following the billboard owner's~~
3842 ~~receipt of written notice under Subsection (4)(b); or]~~
3843 ~~[(ii) if the condition forming the basis of the county's intention to remove the billboard~~
3844 ~~is that it is structurally unsafe, ten business days, or a longer period if necessary because of a~~
3845 ~~natural disaster, following the billboard owner's receipt of written notice under Subsection~~
3846 ~~(4)(b); and]~~
3847 ~~[(d) following the expiration of the applicable period under Subsection (4)(c) and after~~
3848 ~~providing the owner with reasonable notice of proceedings and an opportunity for a hearing,~~
3849 ~~the county finds:]~~
3850 ~~[(i) by clear and convincing evidence, that the applicant for a permit intentionally made~~
3851 ~~a false or misleading statement in the application regarding the placement or erection of the~~
3852 ~~billboard; or]~~
3853 ~~[(ii) by substantial evidence that the billboard is structurally unsafe, is in an~~
3854 ~~unreasonable state of repair, or has been abandoned for at least 12 months:]~~
3855 ~~[(5) A county may not allow a nonconforming billboard to be rebuilt for a reason other~~
3856 ~~than:]~~
3857 ~~[(a) those specified in Subsections (3) and (4);]~~
3858 ~~[(b) those provided in Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act; and]~~
3859 ~~[(c) those specified in the county's ordinance requiring or allowing a billboard owner to~~
3860 ~~relocate and rebuild an existing nonconforming billboard to an area within the county where~~
3861 ~~outdoor advertising is otherwise allowed under Title 72, Chapter 7, Part 5, Utah Outdoor~~
3862 ~~Advertising Act.]~~
3863 (3) (a) A county may not prohibit the reconstruction or restoration of a noncomplying
3864 structure or terminate the nonconforming use of a structure that is involuntarily destroyed in
3865 whole or in part due to fire or other calamity unless the structure or use has been abandoned.
3866 (b) A county may prohibit the reconstruction or restoration of a noncomplying structure
3867 or terminate the nonconforming use of a structure if:
3868 (i) the structure is allowed to deteriorate to a condition that the structure is rendered
3869 uninhabitable and is not repaired or restored within six months after written notice to the

3870 property owner that the structure is uninhabitable and that the noncomplying structure or
3871 nonconforming use will be lost if the structure is not repaired or restored within six months; or

3872 (ii) the property owner has voluntarily demolished a majority of the noncomplying
3873 structure or the building that houses the nonconforming use.

3874 (4) (a) Unless the county establishes, by ordinance, a uniform presumption of legal
3875 existence for nonconforming uses, the property owner shall have the burden of establishing the
3876 legal existence of a noncomplying structure or nonconforming use.

3877 (b) Any party claiming that a nonconforming use has been abandoned shall have the
3878 burden of establishing the abandonment.

3879 (c) Abandonment may be presumed to have occurred if:

3880 (i) a majority of the primary structure associated with the nonconforming use has been
3881 voluntarily demolished without prior written agreement with the county regarding an extension
3882 of the nonconforming use;

3883 (ii) the use has been discontinued for a minimum of one year; or

3884 (iii) the primary structure associated with the nonconforming use remains vacant for a
3885 period of one year.

3886 (d) The property owner may rebut the presumption of abandonment under Subsection
3887 (4)(c), and shall have the burden of establishing that any claimed abandonment under
3888 Subsection (4)(c) has not in fact occurred.

3889 ~~[(6)]~~ (5) A county may terminate the nonconforming status of a school district
3890 [property] or charter school use or structure when the property associated with the school
3891 district or charter school use or structure ceases to be used for school district or charter school
3892 purposes for a period established by ordinance.

3893 Section 114. Section **17-27a-511**, which is renumbered from Section 17-27-408 is
3894 renumbered and amended to read:

3895 ~~[17-27-408].~~ **17-27a-511. Existing outdoor advertising uses.**

3896 (1) A county may only require termination of a billboard and associated property rights
3897 through:

3898 (a) gift;

3899 (b) purchase;

3900 (c) agreement;

3901 (d) exchange; or

3902 (e) eminent domain.

3903 (2) A termination under Subsection (1)(a), (b), (c), or (d) requires the voluntary consent
3904 of the billboard owner.

3905 Section 115. Section **17-27a-512** is enacted to read:

3906 **17-27a-512. Nonconforming billboards.**

3907 (1) (a) A county is considered to have initiated the acquisition of a billboard structure
3908 by eminent domain if the county prevents a billboard owner from:

3909 (i) rebuilding, maintaining, repairing, or restoring a billboard structure that is damaged
3910 by casualty, an act of God, or vandalism; or

3911 (ii) except as provided in Subsection (1)(b), relocating or rebuilding a billboard
3912 structure, or taking other measures, to correct a mistake in the placement or erection of a
3913 billboard for which the county has issued a permit, if the proposed relocation, rebuilding, or
3914 other measure is consistent with the intent of that permit.

3915 (b) A county's denial of a billboard owner's request to relocate or rebuild a billboard
3916 structure, or to take other measures, in order to correct a mistake in the placement or erection of
3917 a billboard does not constitute the initiation of acquisition by eminent domain under Subsection
3918 (1)(a) if the mistake in placement or erection of the billboard is determined by clear and
3919 convincing evidence to have resulted from an intentionally false or misleading statement:

3920 (i) by the billboard applicant in the application; and

3921 (ii) regarding the placement or erection of the billboard.

3922 (2) Notwithstanding Subsection (1) and Section 17-27a-511, a county may remove a
3923 billboard without providing compensation if:

3924 (a) the county determines:

3925 (i) by clear and convincing evidence that the applicant for a permit intentionally made a
3926 false or misleading statement in the applicant's application regarding the placement or erection
3927 of the billboard; or

3928 (ii) by substantial evidence that the billboard:

3929 (A) is structurally unsafe;

3930 (B) is in an unreasonable state of repair; or

3931 (C) has been abandoned for at least 12 months;

3932 (b) the county notifies the owner in writing that the owner's billboard meets one or
3933 more of the conditions listed in Subsections (2)(a)(i) and (ii);

3934 (c) the owner fails to remedy the condition or conditions within:

3935 (i) except as provided in Subsection (2)(c)(ii), 90 days following the billboard owner's
3936 receipt of written notice under Subsection (2)(b); or

3937 (ii) if the condition forming the basis of the county's intention to remove the billboard
3938 is that it is structurally unsafe, ten business days, or a longer period if necessary because of a
3939 natural disaster, following the billboard owner's receipt of written notice under Subsection
3940 (2)(b); and

3941 (d) following the expiration of the applicable period under Subsection (2)(c) and after
3942 providing the owner with reasonable notice of proceedings and an opportunity for a hearing,
3943 the county finds:

3944 (i) by clear and convincing evidence, that the applicant for a permit intentionally made
3945 a false or misleading statement in the application regarding the placement or erection of the
3946 billboard; or

3947 (ii) by substantial evidence that the billboard is structurally unsafe, is in an
3948 unreasonable state of repair, or has been abandoned for at least 12 months.

3949 (3) A county may not allow a nonconforming billboard to be rebuilt for a reason other
3950 than:

3951 (a) those specified in Subsections (1) and (2);

3952 (b) those provided in Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act; and

3953 (c) those specified in the county's ordinance requiring or allowing a billboard owner to
3954 relocate and rebuild an existing nonconforming billboard to an area within the county where
3955 outdoor advertising is otherwise allowed under Title 72, Chapter 7, Part 5, Utah Outdoor
3956 Advertising Act.

3957 Section 116. Section **17-27a-513**, which is renumbered from Section 17-27-105.5 is
3958 renumbered and amended to read:

3959 **~~[17-27-105.5].~~ 17-27a-513. Manufactured homes.**

3960 (1) For purposes of this section, a manufactured home is the same as defined in Section
3961 58-56-3, except that the manufactured home must be attached to a permanent foundation in
3962 accordance with plans providing for vertical loads, uplift, and lateral forces and frost protection

3963 in compliance with the applicable building code. All appendages, including carports, garages,
 3964 storage buildings, additions, or alterations must be built in compliance with the applicable
 3965 building code.

3966 (2) A manufactured home may not be excluded from any land use zone or area in
 3967 which a single-family residence would be permitted, provided the manufactured home
 3968 complies with all local [~~zoning,~~] land use ordinances, building [~~code~~] codes, and [~~subdivision~~
 3969 requirements, including] any restrictive covenants, applicable to [~~single-family~~] a single-family
 3970 residence within that zone or area.

3971 (3) A county may not:

3972 (a) adopt or enforce an ordinance or regulation that treats a proposed development that
 3973 includes manufactured homes differently than one that does not include manufactured homes;
 3974 or

3975 (b) reject a development plan based on the fact that the development is expected to
 3976 contain manufactured homes.

3977 Section 117. Section **17-27a-514**, which is renumbered from Section 17-27-107 is
 3978 renumbered and amended to read:

3979 [~~17-27-107~~]. **17-27a-514. Regulation of amateur radio antennas.**

3980 (1) A county may not enact or enforce an ordinance that does not comply with the
 3981 ruling of the Federal Communications Commission in "Amateur Radio Preemption, 101 FCC
 3982 2nd 952 (1985)" or a regulation related to amateur radio service adopted under 47 C.F.R. Part
 3983 97.

3984 (2) If a county adopts an ordinance involving the placement, screening, or height of an
 3985 amateur radio antenna based on health, safety, or aesthetic conditions, the ordinance shall:

3986 (a) reasonably accommodate amateur radio communications; and

3987 (b) represent the minimal practicable regulation to accomplish the county's purpose.

3988 Section 118. Section **17-27a-515**, which is renumbered from Section 17-27-501 is
 3989 renumbered and amended to read:

3990 [~~17-27-501~~]. **17-27a-515. Residential facilities for elderly persons.**

3991 (1) [~~(a)~~] A residential facility for elderly persons may not operate as a business.

3992 [~~(b)~~] (2) A residential facility for elderly persons shall:

3993 [~~(i)~~] (a) be owned by one of the residents or by an immediate family member of one of

3994 the residents or be a facility for which the title has been placed in trust for a resident;
3995 [(ii)] (b) be consistent with any existing [~~zoning of~~], applicable land use ordinance
3996 affecting the desired location; and
3997 [(iii)] (c) be occupied on a 24-hour-per-day basis by eight or fewer elderly persons in a
3998 family-type arrangement.
3999 [(2)] (3) A residential facility for elderly persons may not be considered a business
4000 because a fee is charged for food or for actual and necessary costs of operation and
4001 maintenance of the facility.

4002 Section 119. Section **17-27a-516**, which is renumbered from Section 17-27-502 is
4003 renumbered and amended to read:

4004 [~~17-27-502~~]. **17-27a-516**. **County ordinances governing elderly residential**
4005 **facilities.**

4006 (1) Each county shall adopt ordinances that establish that a residential facility for
4007 elderly persons is a permitted use in any area where residential dwellings are allowed, except
4008 an area zoned to permit exclusively single-family dwellings.

4009 (2) The ordinances shall establish a permit process that may require only that:

4010 (a) the facility meet [~~all applicable~~] each building, safety, [~~zoning,~~] land use, and
4011 health [~~ordinances~~] ordinance applicable to similar dwellings;

4012 (b) adequate off-street parking space be provided;

4013 (c) the facility be capable of use as a residential facility for elderly persons without
4014 structural or landscaping alterations that would change the structure's residential character;

4015 (d) residential facilities for elderly persons be reasonably dispersed throughout the
4016 county;

4017 (e) no person being treated for alcoholism or drug abuse be placed in a residential
4018 facility for elderly persons; and

4019 (f) placement in a residential facility for elderly persons be on a strictly voluntary basis
4020 and not a part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional
4021 facility.

4022 Section 120. Section **17-27a-517**, which is renumbered from Section 17-27-503 is
4023 renumbered and amended to read:

4024 [~~17-27-503~~]. **17-27a-517**. **County approval of elderly residential facilities.**

4025 (1) ~~[(a)]~~ Upon application for a permit to establish a residential facility for elderly
 4026 persons in any area where residential dwellings are allowed, except an area zoned to permit
 4027 exclusively single-family dwellings, the county ~~[may decide only whether or not the residential~~
 4028 ~~facility for elderly persons conforms to ordinances adopted by the county under this part]~~ shall
 4029 grant the requested permit to the facility if the facility is proposed outside of a zone regulated
 4030 exclusively for single-family homes and shall otherwise comply with Section 17-27a-518 if the
 4031 facility is proposed in a land use zone regulated exclusively for single-family homes.

4032 ~~[(b) If the county determines that the residential facility for elderly persons complies~~
 4033 ~~with the ordinances, it shall grant the requested permit to that facility.]~~

4034 (2) The use granted and permitted by this section is nontransferable and terminates if
 4035 the structure is devoted to a use other than a residential facility for elderly persons or if the
 4036 structure fails to comply with the ordinances adopted under this ~~[part]~~ section.

4037 (3) If a county has not adopted ordinances under this ~~[part]~~ section at the time an
 4038 application for a permit to establish a residential facility for elderly persons is made, the county
 4039 shall grant the permit if it is established that the criteria set forth in this part have been met by
 4040 the facility.

4041 Section 121. Section **17-27a-518**, which is renumbered from Section 17-27-504 is
 4042 renumbered and amended to read:

4043 ~~[17-27-504].~~ **17-27a-518. Elderly residential facilities in areas zoned**
 4044 **exclusively for single-family dwellings.**

4045 (1) For purposes of this section:

4046 (a) no person who is being treated for alcoholism or drug abuse may be placed in a
 4047 residential facility for elderly persons; and

4048 (b) placement in a residential facility for elderly persons shall be on a strictly voluntary
 4049 basis and may not be a part of, or in lieu of, confinement, rehabilitation, or treatment in a
 4050 correctional institution.

4051 (2) Subject to the granting of a conditional use permit, a residential facility for elderly
 4052 persons shall be allowed in any ~~[county zoning district]~~ zone that is ~~[zoned]~~ regulated to permit
 4053 exclusively single-family dwelling use, if that facility:

4054 (a) conforms to all applicable health, safety, ~~[zoning]~~ land use, and building codes;

4055 (b) is capable of use as a residential facility for elderly persons without structural or

4056 landscaping alterations that would change the structure's residential character; and

4057 (c) conforms to the county's criteria, adopted by ordinance, governing the location of
4058 residential facilities for elderly persons in areas zoned to permit exclusively single-family
4059 dwellings.

4060 (3) A county may, by ordinance, provide that no residential facility for elderly persons
4061 be established within three-quarters mile of another existing residential facility for elderly
4062 persons or residential facility for persons with a disability[~~as defined by Section 17-27-605~~].

4063 (4) The use granted and permitted by this section is nontransferable and terminates if
4064 the structure is devoted to a use other than as a residential facility for elderly persons or if the
4065 structure fails to comply with applicable health, safety, and building codes.

4066 (5) (a) County ordinances shall prohibit discrimination against elderly persons and
4067 against residential facilities for elderly persons.

4068 (b) The decision of a county regarding the application for a permit by a residential
4069 facility for elderly persons must be based on legitimate land use criteria and may not be based
4070 on the age of the facility's residents.

4071 (6) The requirements of this section that a residential facility for elderly persons obtain
4072 a conditional use permit or other permit do not apply if the facility meets the requirements of
4073 existing ~~[zoning]~~ land use ordinances that allow a specified number of unrelated persons to live
4074 together.

4075 Section 122. Section **17-27a-519**, which is renumbered from Section 17-27-605 is
4076 renumbered and amended to read:

4077 ~~[17-27-605]~~. **17-27a-519. Residences for persons with a disability.**

4078 ~~[(1) As used in this section:]~~

4079 ~~[(a) "Disability" is defined in Section 57-21-2.]~~

4080 ~~[(b) "Residential facility for persons with a disability" means a residence:]~~

4081 ~~[(i) in which more than one person with a disability resides; and]~~

4082 ~~[(ii) (A) is licensed or certified by the Department of Human Services under Title 62A,
4083 Chapter 2, Licensure of Programs and Facilities; or]~~

4084 ~~[(B) is licensed or certified by the Department of Health under Title 26, Chapter 21,
4085 Health Care Facility Licensing and Inspection Act.]~~

4086 ~~[(2)]~~ (1) Each county shall adopt an ordinance for residential facilities for persons with

4087 a disability.

4088 ~~[(3)]~~ (2) Each ordinance under Subsection ~~[(2)]~~ (1) shall:

4089 (a) comply with Title 57, Chapter 21, Utah Fair Housing Act, and the federal Fair
4090 Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq.; and

4091 (b) to the extent required by federal law, provide that a residential facility for persons
4092 with a disability is a permitted use in any ~~[zoning-area]~~ zone where similar residential
4093 dwellings that are not residential facilities for persons with a disability are allowed.

4094 ~~[(4)]~~ (3) Subject to Subsection ~~[(3)]~~ (2), an ordinance under Subsection ~~[(2)]~~ (1) may:

4095 (a) require residential facilities for persons with a disability:

4096 (i) to be reasonably dispersed throughout the county;

4097 (ii) to be limited by number of occupants;

4098 (iii) for residential facilities for persons with a disability that are substance abuse
4099 facilities and are located within 500 feet of a school, to provide, in accordance with rules
4100 established by the Department of Human Services under Title 62A, Chapter 2, Licensure of
4101 Programs and Facilities:

4102 (A) a security plan satisfactory to local law enforcement authorities;

4103 (B) 24-hour supervision for residents; and

4104 (C) other 24-hour security measures; and

4105 (iv) to obtain permits that verify compliance with the same building, safety, and health
4106 regulations as are applicable in the same ~~[zoning-area]~~ zone to similar uses that are not
4107 residential facilities for persons with a disability; and

4108 (b) provide that a residential facility for persons with a disability that would likely
4109 create a fundamental change in the character of a residential neighborhood may be excluded
4110 from a ~~[zoning-area]~~ zone.

4111 ~~[(5)]~~ (4) The responsibility to license programs or entities that operate facilities for
4112 persons with a disability, as well as to require and monitor the provision of adequate services to
4113 persons residing in those facilities, shall rest with:

4114 (a) for programs or entities licensed or certified by the Department of Human Services,
4115 the Department of Human Services as provided in Title 62A, Chapter 5, Services to People
4116 with Disabilities; and

4117 (b) for programs or entities licensed or certified by the Department of Health, the

4118 Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and
4119 Inspection Act.

4120 Section 123. Section **17-27a-601**, which is renumbered from Section 17-27-801 is
4121 renumbered and amended to read:

4122 **Part 6. Subdivisions**

4123 ~~[17-27-801].~~ **17-27a-601. Enactment of subdivision ordinance.**

4124 (1) The legislative body of [any] a county may enact [a subdivision ordinance]
4125 ordinances requiring that a subdivision plat comply with the provisions of the [subdivision]
4126 ordinance and [be approved as required by] this part before:

4127 ~~[(1)]~~ (a) it may be filed or recorded in the county recorder's office; and

4128 ~~[(2)]~~ (b) lots may be sold.

4129 (2) If the legislative body fails to enact a subdivision ordinance, the county may
4130 regulate subdivisions only as provided in this part.

4131 Section 124. Section **17-27a-602**, which is renumbered from Section 17-27-802 is
4132 renumbered and amended to read:

4133 ~~[17-27-802].~~ **17-27a-602. Preparation -- Adoption/amendment.**

4134 (1) The planning commission shall:

4135 (a) prepare and recommend a proposed [subdivision] ordinance to the legislative body
4136 that regulates the subdivision of land;

4137 (b) prepare and recommend or consider and recommend a proposed ordinance that
4138 amends the regulation of the subdivision of the unincorporated land in the county;

4139 (c) provide notice consistent with Section 17-27a-205; and

4140 ~~[(b)]~~ (d) hold a public hearing on the proposed [subdivision] ordinance before making
4141 its final recommendation to the legislative body[; and].

4142 ~~[(c) provide reasonable notice of the public hearing at least 14 days before the date of~~
4143 ~~the hearing.]~~

4144 ~~[(2) The legislative body shall:]~~

4145 ~~[(a) hold a public hearing on the proposed subdivision ordinance recommended to it by~~
4146 ~~the planning commission; and]~~

4147 ~~[(b) provide reasonable notice of the public hearing at least 14 days before the date of~~
4148 ~~the hearing.]~~

4149 ~~[(3) After the public hearing, the]~~
 4150 (2) The county legislative body may~~[-(a)]~~ adopt or reject the [subdivision] ordinance
 4151 either as proposed~~[-(b) amend the subdivision ordinance and adopt or reject it as amended; or~~
 4152 (c) reject the ordinance] by the planning commission or after making any revision the county
 4153 legislative body considers appropriate.

4154 Section 125. Section **17-27a-603**, which is renumbered from Section 17-27-804 is
 4155 renumbered and amended to read:

4156 ~~[17-27-804].~~ **17-27a-603. Plats required.**

4157 (1) Unless exempt under Section ~~[17-27-806]~~ 17-27a-605 or ~~[not included in the]~~
 4158 excluded from the definition of ~~[a]~~ subdivision under Subsection ~~[17-27-103(1)]~~
 4159 17-27a-103(37), whenever any ~~[lands are divided]~~ land is laid out and platted, the owner of
 4160 ~~[those lands]~~ the land shall ~~[have]~~ provide an accurate plat ~~[made of them that sets forth and~~
 4161 describes: (a) all] that describes or specifies:

4162 (a) a name or designation of the subdivision that is distinct from any plat already
 4163 recorded in the county recorder's office;

4164 (b) the boundaries, course, and dimensions of all of the parcels of ground divided, by
 4165 their boundaries, course, and extent, [and] whether [they are intended for streets or] the owner
 4166 proposes that any parcel of ground is intended be used as a street or for any other public [uses,
 4167 together with any areas that are reserved for public purposes; and] use, and whether any such
 4168 area is reserved or proposed for dedication for a public purpose;

4169 ~~[(b)]~~ (c) the lot or unit reference, [the] block or building reference, [the] street or site
 4170 address, [the] street name or coordinate address, [the] acreage or square footage for all parcels,
 4171 units, or lots, and [the] length and width of the blocks and lots intended for sale[-]; and

4172 (d) every existing right-of-way and easement grant of record for underground facilities,
 4173 as defined in Section 54-8a-2, and for other utility facilities.

4174 (2) Subject to Subsections (3), (4), and (5), if the plat conforms to the county's
 4175 ordinances and this part and has been approved by the culinary water authority and the sanitary
 4176 sewer authority, the county shall approve the plat.

4177 (3) The county may withhold an otherwise valid plat approval until the owner of the
 4178 land provides the legislative body with a tax clearance indicating that all taxes, interest, and
 4179 penalties owing on the land have been paid.

4180 ~~[(2)]~~ (4) (a) The owner of the land shall acknowledge the plat before an officer
4181 authorized by law to take the acknowledgment of conveyances of real estate and shall obtain
4182 the signature of each individual designated by the county.

4183 (b) The surveyor making the plat shall certify ~~[it:]~~ that the surveyor:

4184 ~~[(c) The county executive shall approve the plat as provided in this part. Before the~~
4185 ~~county executive may approve a plat, the owner of the land shall provide the county executive~~
4186 ~~with a tax clearance indicating that all taxes, interest, and penalties owing on the land have~~
4187 ~~been paid.]~~

4188 (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and
4189 Land Surveyors Licensing Act;

4190 (ii) has completed a survey of the property described on the plat in accordance with
4191 Section 17-23-17 and has verified all measurements; and

4192 (iii) has placed monuments as represented on the plat.

4193 (c) As applicable, the owner or operator of the underground and utility facilities shall
4194 approve the:

4195 (i) boundary, course, dimensions, and intended use of the right-of-way and easement
4196 grants of record;

4197 (ii) location of existing underground and utility facilities; and

4198 (iii) conditions or restrictions governing the location of the facilities within the
4199 right-of-way, and easement grants of records, and utility facilities within the subdivision.

4200 ~~[(3)]~~ (5) (a) After the plat has been acknowledged, certified, and approved, the owner
4201 of the land shall, ~~[subject to Subsection (3)(b)]~~ within the time period designated by ordinance,
4202 record [it] the plat in the county recorder's office in the county in which the lands platted and
4203 laid out are situated.

4204 ~~[(b) An owner of land may not submit for recording a plat that gives the subdivision~~
4205 ~~described in the plat the same name as a subdivision in a plat already recorded in the county~~
4206 ~~recorder's office.]~~

4207 (b) An owner's failure to record a plat within the time period designated by ordinance
4208 renders the plat voidable.

4209 Section 126. Section **17-27a-604**, which is renumbered from Section 17-27-805 is
4210 renumbered and amended to read:

4211 ~~[17-27-805].~~ **17-27a-604. Subdivision approval procedure.**

4212 (1) A person may not submit a ~~[plat of a]~~ subdivision plat to the county recorder's
4213 office for recording unless a recommendation has been received from the planning commission
4214 and:

4215 (a) the plat has been approved by:

4216 (i) the ~~[executive]~~ land use authority of the county in whose unincorporated area the
4217 ~~[subdivision]~~ land described in the plat is located; ~~[or]~~ and

4218 (ii) other officers that the county ~~[legislative body]~~ designates in ~~[an]~~ its ordinance; and

4219 (b) ~~[the approval is]~~ all approvals are entered in writing on the plat by ~~[the county~~
4220 ~~executive or by the other officers designated in the ordinance]~~ designated officers.

4221 (2) A ~~[subdivision]~~ plat recorded without the ~~[approval]~~ signatures required under this
4222 section is void.

4223 (3) A transfer of land pursuant to a void plat is voidable.

4224 Section 127. Section **17-27a-605**, which is renumbered from Section 17-27-806 is
4225 renumbered and amended to read:

4226 ~~[17-27-806].~~ **17-27a-605. Exemptions from plat requirement.**

4227 ~~[(1) (a) Notwithstanding Sections 17-27-804 and 17-27-805, a person may submit to~~
4228 ~~the county recorder's office for recording a document that subdivides property by metes and~~
4229 ~~bounds into less than ten lots, without the necessity of recording a plat, if:]~~

4230 ~~[(i) the planning commission, if required by county ordinance, has given the county~~
4231 ~~executive its recommendation, whether favorable or not; and]~~

4232 ~~[(ii) the document contains a certificate or written approval from:]~~

4233 ~~[(A) the executive of the county in whose unincorporated area the property is located;~~
4234 ~~or]~~

4235 ~~[(B) other officers that the county legislative body designates in an ordinance.]~~

4236 ~~[(b) By indicating its approval on a document under Subsection (1)(a), the county~~
4237 ~~executive or other officer designated by the county legislative body certifies that:]~~

4238 ~~[(i) the planning commission:]~~

4239 ~~[(A) has given its recommendation to the county executive; or]~~

4240 ~~[(B) is not required by county ordinance to give its recommendation;]~~

4241 ~~[(ii) the subdivision]~~

4242 (1) Notwithstanding Sections 17-27a-603 and 17-27a-604, the land use authority may
4243 approve the subdivision of unincorporated land into ten lots or less without a plat, by certifying
4244 in writing that:

4245 (a) the county has provided notice as required by ordinance and by Sections
4246 17-27a-206 and 17-27a-207;

4247 (b) the proposed subdivision:

4248 (i) is not traversed by the mapped lines of a proposed street as shown in the general
4249 plan and does not require the dedication of any land for street or other public purposes; ~~and~~

4250 ~~[(iii) if the subdivision]~~

4251 (ii) has been approved by the culinary water authority and the sanitary sewer authority;

4252 (iii) is located in a zoned area~~[, each lot in the subdivision meets the frontage, width,~~
4253 ~~and area requirements of the zoning ordinance or has been granted]; and~~

4254 (iv) conforms to all applicable land use ordinances or has properly received a variance
4255 from ~~[those requirements by the board of adjustment.]~~ the requirements of an otherwise
4256 conflicting and applicable land use ordinance.

4257 (2) (a) Subject to Subsection ~~[(2)(b)]~~ (1), a lot or parcel resulting from a division of
4258 agricultural land is exempt from the plat requirements of Section ~~[17-27-804]~~ 17-27a-603 if the
4259 lot or parcel:

4260 (i) qualifies as land in agricultural use under Title 59, Chapter 2, Part 5, Farmland
4261 Assessment Act;

4262 (ii) meets the minimum size requirement of applicable ~~[zoning]~~ land use ordinances
4263 ~~[for agricultural uses]; and~~

4264 (iii) is not used and will not be used for any nonagricultural purpose.

4265 (b) ~~[(i)]~~ The ~~[county legislative body may adopt an ordinance requiring the]~~ boundaries
4266 of each lot or parcel exempted under Subsection ~~[(2)(a) to]~~ (1) shall be graphically illustrated
4267 on a record of survey map that, after receiving the same approvals as are required for a plat
4268 under Section ~~[17-27-805]~~ 17-27a-604, shall be recorded with the county recorder.

4269 ~~[(ii) As an alternative to enacting an ordinance under Subsection (2)(b)(i), a county~~
4270 ~~legislative body may establish a procedure under which a notice, covenant, or other specified~~
4271 ~~legal instrument containing a legal description of the subject property and identifying the~~
4272 ~~agricultural purpose for the land division is recorded with the county recorder.]~~

4273 (c) If a lot or parcel exempted under Subsection (2)(a) is used for a nonagricultural
4274 purpose, the county [~~in whose unincorporated area the lot or parcel is located~~] may require the
4275 lot or parcel to comply with the requirements of Section [~~17-27-804~~] 17-27a-603.

4276 (3) (a) Documents recorded in the county recorder's office that divide property by a
4277 metes and bounds description do not create [~~a~~] an approved subdivision allowed by this part
4278 unless the land use authority's certificate of written approval required by Subsection (1)(a)(ii) is
4279 attached to the document.

4280 (b) The absence of the certificate or written approval required by Subsection (1)[~~(a)(ii)~~]
4281 does not affect the validity of a recorded document.

4282 (c) A document [~~recorded under Subsection (1)(a)~~] which does not meet the
4283 requirements of Subsection (1)[~~(a)(ii)~~] may be corrected [~~to comply with Subsection (1)(a)(ii)~~]
4284 by the recording of an affidavit to which the required certificate or written approval is attached
4285 in accordance with Section 57-3-106.

4286 Section 128. Section **17-27a-606**, which is renumbered from Section 17-27-806.5 is
4287 renumbered and amended to read:

4288 [~~17-27-806.5~~]. **17-27a-606. Common area parcels on a plat -- No separate**
4289 **ownership -- Ownership interest equally divided among other parcels on plat and**
4290 **included in description of other parcels.**

4291 (1) A parcel designated as common area on a plat recorded in compliance with this part
4292 may not be separately owned or conveyed independent of the other parcels created by the plat.

4293 (2) The ownership interest in a parcel described in Subsection (1) shall:

4294 (a) for purposes of assessment, be divided equally among all parcels created by the
4295 plat, unless a different division of interest for assessment purposes is indicated on the plat or an
4296 accompanying recorded document; and

4297 (b) be considered to be included in the description of each instrument describing a
4298 parcel on the plat by its identifying plat number, even if the common area interest is not
4299 explicitly stated in the instrument.

4300 Section 129. Section **17-27a-607**, which is renumbered from Section 17-27-807 is
4301 renumbered and amended to read:

4302 [~~17-27-807~~]. **17-27a-607. Dedication of streets.**

4303 (1) Plats, when made, acknowledged, and recorded according to the procedures

4304 specified in this part, operate as a dedication of all streets and other public places, and vest the
4305 fee of those parcels of land in the county for the public for the uses named or intended in those
4306 plats.

4307 (2) The dedication established by this section does not impose liability upon the county
4308 for streets and other public places that are dedicated in this manner but are unimproved.

4309 Section 130. Section **17-27a-608**, which is renumbered from Section 17-27-808 is
4310 renumbered and amended to read:

4311 ~~[17-27-808].~~ **17-27a-608. Vacating or changing a subdivision plat.**

4312 (1) (a) Subject to [~~Subsection (2), the county executive or any other officer that the~~
4313 ~~county legislative body designates by ordinance]~~ Section 17-27a-610, and provided that notice
4314 has been given pursuant to local ordinance and Section 17-27a-208, the land use authority may,
4315 with or without a petition, consider and resolve any proposed vacation, alteration, or
4316 amendment of a subdivision plat, any portion of a subdivision plat, or any street, lot, or alley
4317 contained in a subdivision plat [~~at a public hearing~~].

4318 (b) If a petition is filed, the [~~responsible officer]~~ land use authority shall hold [~~the~~] a
4319 public hearing within 45 days after receipt of the planning commission's recommendation
4320 under Subsection (2) if:

- 4321 (i) the plat change includes the vacation of a public street or alley;
- 4322 (ii) any owner within the plat notifies the [~~municipality]~~ county of their objection in
4323 writing within ten days of mailed notification; or
- 4324 (iii) a public hearing is required because all of the owners in the subdivision have not
4325 signed the revised plat.

4326 [~~(2) (a) Before the county legislative body or officer designated by the county~~
4327 ~~legislative body may consider]~~

4328 (2) (a) The planning commission shall consider and provide a recommendation for a
4329 proposed vacation, alteration, or amendment under Subsection (1)(a) or (6)[, the county
4330 legislative body or officer shall refer the proposal to the planning commission for its
4331 recommendation] before the land use authority takes final action.

4332 (b) The planning commission shall give its recommendation within 30 days after the
4333 proposed vacation, alteration, or amendment is referred to it, or as that time period is extended
4334 by agreement with the applicant.

4335 (3) Any fee owner, as shown on the last county assessment rolls, of land within the
4336 subdivision that has been laid out and platted as provided in this part may, in writing, petition
4337 ~~[the county executive]~~ to have the plat, any portion of it, or any street or lot contained in it,
4338 vacated, altered, or amended as provided in this section.

4339 (4) Each petition to vacate, alter, or amend an entire plat, a portion of a plat, or a street
4340 or lot contained in a plat shall include:

4341 (a) the name and address of all owners of record of the land contained in the entire plat;

4342 (b) the name and address of all owners of record of land adjacent to any street that is
4343 proposed to be vacated, altered, or amended; and

4344 (c) the signature of each of these owners who consents to the petition.

4345 (5) (a) A petition that lacks the consent of all owners referred to in Subsection (4) may
4346 not be scheduled for consideration at a public hearing before the ~~[responsible officer]~~ planning
4347 commission until the notice required by ~~[this part]~~ Section 17-27a-207 or 17-27a-208, as
4348 applicable, is given.

4349 (b) The petitioner shall pay the cost of the notice.

4350 (6) Subject to Subsection (2), if the ~~[responsible body or officer]~~ applicant proposes to
4351 vacate, alter, or amend a subdivision plat, or any street or lot contained in a subdivision plat,
4352 ~~[they]~~ the planning commission shall consider the issue at a public hearing after giving the
4353 notice required by ~~[this part]~~ Section 17-27a-207 or 17-27a-208, as applicable.

4354 (7) (a) The owners of record of adjacent parcels that are described by either a metes
4355 and bounds description or a recorded plat may exchange title to portions of those parcels if the
4356 exchange of title is approved by the ~~[planning commission, or such other person or board as the~~
4357 ~~county legislative body may designate,]~~ land use authority in accordance with Subsection
4358 (7)(b).

4359 (b) The ~~[planning commission, or such other person or board as the county legislative~~
4360 ~~body may designate,]~~ land use authority shall approve an exchange of title under Subsection
4361 (7)(a) if:

4362 (i) no new dwelling lot or housing unit will result from the exchange of title; and

4363 (ii) the exchange of title will not result in a violation of ~~[applicable zoning~~
4364 ~~requirements]~~ any land use ordinance.

4365 (c) If an exchange of title is approved under Subsection (7)(b), a notice of approval

4366 shall be recorded [~~by the planning commission, or such other person or board as the county~~
4367 ~~legislative body may designate,~~] in the office of the county recorder which:

4368 (i) is executed by each owner included in the exchange and by the [~~planning~~
4369 ~~commission, or such other person or board as the county legislative body may designate~~] land
4370 use authority;

4371 (ii) contains an acknowledgment for each party executing the notice in accordance with
4372 the provisions of Title 57, Chapter 2a, Recognition of Acknowledgments Act; and

4373 (iii) recites the descriptions of both the original parcels and the parcels created by the
4374 exchange of title.

4375 (d) A notice of approval recorded under this Subsection (7) does not act as a
4376 conveyance of title to real property and is not required for the recording of a document
4377 purporting to convey title to real property.

4378 (8) (a) The name of a recorded subdivision may be changed by recording an amended
4379 plat making that change, as provided in this section and subject to Subsection (8)(c).

4380 (b) The surveyor [~~making~~] preparing the amended plat shall certify [~~it.~~] that the
4381 surveyor:

4382 (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and
4383 Land Surveyors Licensing Act;

4384 (ii) has completed a survey of the property described on the plat in accordance with
4385 Section 17-23-17 and has verified all measurements; and

4386 (iii) has placed monuments as represented on the plat;

4387 (c) An owner of land may not submit for recording an amended plat that gives the
4388 subdivision described in the amended plat the same name as a subdivision in a plat already
4389 recorded in the county recorder's office.

4390 (d) Except as provided in Subsection (8)(a), the recording of a declaration or other
4391 document that purports to change the name of a recorded plat is [~~void~~] voidable.

4392 Section 131. Section **17-27a-609**, which is renumbered from Section 17-27-810 is
4393 renumbered and amended to read:

4394 [~~17-27-810~~]. **17-27a-609. Grounds for vacating or changing a plat.**

4395 (1) [~~(a)~~] Within 30 days after the public hearing required by this part, [~~the responsible~~
4396 ~~officer~~] or as that time period may be extended by agreement of the parties, the land use

4397 authority shall consider the petition to vacate or change a plat.

4398 ~~[(b)]~~ (2) If the ~~[responsible officer]~~ land use authority is satisfied that the public will
4399 not be materially injured by the proposed vacation, alteration, or amendment, and that there is
4400 good cause for the vacation, alteration, or amendment, the ~~[county executive]~~ land use
4401 authority may vacate, alter, or amend the plat, any portion of the plat, or any street or lot.

4402 ~~[(c)]~~ (3) The ~~[responsible officer]~~ land use authority may approve the vacation,
4403 alteration, or amendment by resolution, amended plat, administrative order, or deed containing
4404 a stamp or mark indicating approval by the ~~[responsible officer]~~ land use authority.

4405 ~~[(d)]~~ (4) The ~~[responsible officer]~~ land use authority shall ensure that the vacation,
4406 alteration, or amendment is recorded in the office of the county recorder in which the land is
4407 located.

4408 ~~[(2) An aggrieved party may appeal the responsible officer's decision to the board of~~
4409 ~~adjustment.]~~

4410 (5) The action of the land use authority vacating or narrowing a street or alley that has
4411 been dedicated to public use shall operate to the extent which it is vacated or narrowed, upon
4412 the effective date of the vacating ordinance, as a revocation of the acceptance thereof, and the
4413 relinquishment of the county's fee therein, but the right-of-way and easements therein, if any, of
4414 any lot owner and the franchise rights of any public utility may not be impaired thereby.

4415 Section 132. Section **17-27a-610**, which is renumbered from Section 17-27-901 is
4416 renumbered and amended to read:

4417 ~~[17-27-901].~~ **17-27a-610. Restrictions for solar and other energy devices.**

4418 ~~[(1) The legislative body, in order to protect and ensure access to sunlight for solar~~
4419 ~~energy devices, may adopt regulations governing legislative subdivision development plans~~
4420 ~~that relate to the use of restrictive covenants or solar easements, height restrictions, side yard~~
4421 ~~and setback requirements, street and building orientation and width requirements, height and~~
4422 ~~location of vegetation with respect to property boundary lines, and other permissible forms of~~
4423 ~~land use controls.]~~

4424 ~~[(2) The county executive]~~

4425 The land use authority may refuse to approve or renew any plat ~~[or]~~, subdivision plan,
4426 or dedication of any street or other ground, if ~~[the]~~ deed restrictions, covenants, or similar
4427 binding agreements running with the land for the lots or parcels covered by the plat or

4428 subdivision prohibit, or have the effect of prohibiting reasonably sited and designed solar
4429 collectors, clotheslines, or other energy devices based on renewable resources from being
4430 installed on buildings erected on lots or parcels covered by the plat or subdivision.

4431 Section 133. Section **17-27a-611**, which is renumbered from Section 17-27-811 is
4432 renumbered and amended to read:

4433 ~~[17-27-811].~~ **17-27a-611. Prohibited acts.**

4434 (1) (a) An owner of any land located in a subdivision[~~, as defined in this chapter;~~] who
4435 transfers or sells any land in that subdivision before a plat of the subdivision has been approved
4436 and recorded [~~as required in this part~~] violates this part for each lot or parcel transferred or
4437 sold.

4438 (b) The description by metes and bounds in [~~the~~] an instrument of transfer or other
4439 documents used in the process of selling or transferring does not exempt the transaction from
4440 being a violation of Subsection (1)(a) or from the penalties or remedies provided in this
4441 chapter.

4442 (c) Notwithstanding any other provision of this Subsection (1), the recording of an
4443 instrument of transfer or other document used in the process of selling or transferring real
4444 property that violates this part:

- 4445 (i) does not affect the validity of the instrument or other document; and
- 4446 (ii) does not affect whether the property that is the subject of the instrument or other
4447 document complies with applicable county ordinances on land use and development.

4448 (2) (a) A county may bring an action against an owner to require the property to
4449 conform to the provisions of this part or an ordinance enacted under the authority of this part.

4450 (b) An action under this Subsection (2) may include an injunction, abatement, merger
4451 of title, or any other appropriate action or [~~proceedings~~] proceeding to prevent, enjoin, or abate
4452 the violation.

4453 (c) A county need only establish the violation to obtain the injunction.

4454 Section 134. Section **17-27a-701** is enacted to read:

4455 **Part 7. Appeal Authority and Variances**

4456 **17-27a-701. Appeal authority required -- Condition precedent to judicial review.**

4457 (1) Each county adopting a land use ordinance shall, by ordinance, establish one or
4458 more appeal authorities to hear and decide:

4459 (a) requests for variances from the terms of the land use ordinances; and
4460 (b) appeals from decisions applying the land use ordinances.
4461 (2) As a condition precedent to judicial review, each adversely affected person shall
4462 timely and specifically challenge a land use authority's decision, in accordance with local
4463 ordinance.
4464 (3) An appeal authority:
4465 (a) shall:
4466 (i) act in a quasi-judicial manner; and
4467 (ii) serve as the final arbiter of issues involving the interpretation or application of land
4468 use ordinances; and
4469 (c) may not entertain an appeal of a matter in which the appeal authority, or any
4470 participating member, had first acted as the land use authority.
4471 (4) By ordinance, a county may:
4472 (a) designate a separate appeal authority to hear requests for variances than the appeal
4473 authority it designates to hear appeals;
4474 (b) designate one or more separate appeal authorities to hear distinct types of appeals
4475 of land use authority decisions;
4476 (c) require an adversely affected party to present to an appeal authority every theory of
4477 relief that it can raise in district court;
4478 (d) not require an adversely affected party to pursue duplicate or successive appeals
4479 before the same or separate appeal authorities as a condition of the adversely affected party's
4480 duty to exhaust administrative remedies; and
4481 (e) provide that specified types of land use decisions may be appealed directly to the
4482 district court.
4483 (5) If the county establishes or, prior to the effective date of this chapter, has
4484 established a multiperson board, body, or panel to act as an appeal authority, at a minimum the
4485 board, body, or panel shall:
4486 (a) notify each of its members of any meeting or hearing of the board, body, or panel;
4487 (b) provide each of its members with the same information and access to municipal
4488 resources as any other member;
4489 (c) convene only if a quorum of its members is present; and

4490 (d) act only upon the vote of a majority of its convened members.

4491 Section 135. Section **17-27a-702**, which is renumbered from Section 17-27-707 is
4492 renumbered and amended to read:

4493 ~~[17-27-707]~~. **17-27a-702. Variances.**

4494 (1) Any person or entity desiring a waiver or modification of the requirements of [~~the~~
4495 ~~zoning~~] a land use ordinance as applied to a parcel of property that he owns, leases, or in which
4496 he holds some other beneficial interest may apply to the [~~board of adjustment~~] applicable
4497 appeal authority for a variance from the terms of the [~~zoning~~] ordinance.

4498 (2) (a) The [~~board of adjustment~~] appeal authority may grant a variance only if:

4499 (i) literal enforcement of the [~~zoning~~] ordinance would cause an unreasonable hardship
4500 for the applicant that is not necessary to carry out the general purpose of the [~~zoning ordinance~~]
4501 land use ordinances;

4502 (ii) there are special circumstances attached to the property that do not generally apply
4503 to other properties in the same [~~district~~] zone;

4504 (iii) granting the variance is essential to the enjoyment of a substantial property right
4505 possessed by other property in the same [~~district~~] zone;

4506 (iv) the variance will not substantially affect the general plan and will not be contrary
4507 to the public interest; and

4508 (v) the spirit of the [~~zoning~~] land use ordinance is observed and substantial justice
4509 done.

4510 (b) (i) In determining whether or not enforcement of the [~~zoning~~] land use ordinance
4511 would cause unreasonable hardship under Subsection (2)(a), the [~~board of adjustment~~] appeal
4512 authority may not find an unreasonable hardship unless the alleged hardship:

4513 (A) is located on or associated with the property for which the variance is sought; and

4514 (B) comes from circumstances peculiar to the property, not from conditions that are
4515 general to the neighborhood.

4516 (ii) In determining whether or not enforcement of the [~~zoning~~] land use ordinance
4517 would cause unreasonable hardship under Subsection (2)(a), the [~~board of adjustment~~] appeal
4518 authority may not find an unreasonable hardship if the hardship is self-imposed or economic.

4519 (c) In determining whether or not there are special circumstances attached to the
4520 property under Subsection (2)(a), the [~~board of adjustment~~] appeal authority may find that

4521 special circumstances exist only if the special circumstances:

4522 (i) relate to the hardship complained of; and

4523 (ii) deprive the property of privileges granted to other properties in the same [~~district~~]
4524 zone.

4525 (3) The applicant shall bear the burden of proving that all of the conditions justifying a
4526 variance have been met.

4527 (4) Variances run with the land.

4528 (5) The [~~board of adjustment and any other body~~] appeal authority may not grant a use
4529 [~~variances~~] variance.

4530 (6) In granting a variance, the [~~board of adjustment~~] appeal authority may impose
4531 additional requirements on the applicant that will:

4532 (a) mitigate any harmful affects of the variance; or

4533 (b) serve the purpose of the standard or requirement that is waived or modified.

4534 Section 136. Section **17-27a-703** is enacted to read:

4535 **17-27a-703. Standing before appeal authority.**

4536 The applicant, a board or officer of the county, or any person adversely affected by the
4537 land use authority's decision administering or interpreting a land use ordinance may, within the
4538 time period provided by ordinance, appeal that decision to the appeal authority by alleging that
4539 there is error in any order, requirement, decision, or determination made by the land use
4540 authority in the administration or interpretation of the land use ordinance.

4541 Section 137. Section **17-27a-704** is enacted to read:

4542 **17-27a-704. Time appeal.**

4543 (1) The county shall enact an ordinance establishing a reasonable time to appeal a
4544 decision of a land use authority to an appeal authority.

4545 (2) In the absence of such an ordinance and at a minimum, an adversely affected party
4546 shall have ten calendar days to appeal.

4547 Section 138. Section **17-27a-705** is enacted to read:

4548 **17-27a-705. Burden of proof.**

4549 The appellant has the burden of proving that the land use authority erred.

4550 Section 139. Section **17-27a-706** is enacted to read:

4551 **17-27a-706. Due process.**

4552 (1) Each appeal authority shall conduct each appeal and variance request as described
4553 by local ordinance.

4554 (2) Each appeal authority shall respect the due process rights of each of the
4555 participants.

4556 Section 140. Section **17-27a-707** is enacted to read:

4557 **17-27a-707. Standard of review for appeals.**

4558 (1) A county may, by ordinance, designate the standard of review for appeals of land
4559 use authority decisions.

4560 (2) If the county fails to designate a standard of review of factual matters, the appeal
4561 authority shall review the matter de novo.

4562 (3) The appeal authority shall determine the correctness of a decision of the land use
4563 authority in its interpretation and application of a land use ordinance.

4564 (4) Only those decisions in which a land use authority has applied a land use ordinance
4565 to a particular application, person or parcel may be appealed to an appeal authority.

4566 Section 141. Section **17-27a-708** is enacted to read:

4567 **17-27a-708. Final decision.**

4568 (1) A decision of an appeal authority takes effect on the date when the appeal authority
4569 issues a written decision, or as otherwise provided by local ordinance.

4570 (2) A written decision, or other event as provided by ordinance, constitutes a final
4571 decision under Subsection 17-27a-802(2)(a) or a final action under Subsection 17-27a-801(4).

4572 Section 142. Section **17-27a-801**, which is renumbered from Section 17-27-1001 is
4573 renumbered and amended to read:

4574 **Part 8. District Court Appeal**

4575 ~~[17-27-1001].~~ **17-27a-801. Appeals to district court.**

4576 (1) No person may challenge in district court a county's land use ~~[decisions]~~ decision
4577 made under this chapter, or under [the] a regulation made under authority of this chapter, until
4578 that person has exhausted [aH] the person's administrative remedies as provided in Part 7,
4579 Appeal Authority and Variances, if applicable.

4580 (2) (a) Any person adversely affected by ~~[any]~~ a final decision made in the exercise of
4581 or in violation of the provisions of this chapter may file a petition for review of the decision
4582 with the district court within 30 days after the local land use decision is ~~[rendered]~~ final.

4583 (b) (i) The time under Subsection (2)(a) to file a petition is tolled from the date a
4584 property owner files a request for arbitration of a constitutional taking issue with the property
4585 rights ombudsman under Section 63-34-13 until 30 days after:

4586 (A) the arbitrator issues a final award; or

4587 (B) the property rights ombudsman issues a written statement under Subsection
4588 63-34-13(4)(b) declining to arbitrate or to appoint an arbitrator.

4589 (ii) A tolling under Subsection (2)(b)(i) operates only as to the specific constitutional
4590 taking issue that is the subject of the request for arbitration filed with the property rights
4591 ombudsman by a property owner.

4592 (iii) A request for arbitration filed with the property rights ombudsman after the time
4593 under Subsection (2)(a) to file a petition has expired does not affect the time to file a petition.

4594 (3) (a) The courts shall:

4595 (i) presume that [~~land use decisions and regulations are~~] a decision, ordinance, or
4596 regulation made under the authority of this chapter is valid; and

4597 (ii) determine only whether or not the decision, ordinance, or regulation is arbitrary,
4598 capricious, or illegal.

4599 (b) A decision, ordinance, or regulation involving the exercise of legislative discretion
4600 is valid if the decision, ordinance, or regulation is reasonably debatable and not illegal.

4601 (c) A final decision of a land use authority or an appeal authority is valid if the decision
4602 is supported by substantial evidence in the record and is not arbitrary, capricious, or illegal.

4603 [~~(b)~~] (d) A determination of illegality requires a determination that the decision,
4604 ordinance, or regulation violates a law, statute, or ordinance[-or existing law] in effect at the
4605 time the decision was made or the ordinance or regulation adopted.

4606 (4) The provisions of Subsection (2)(a) apply from the date on which the county takes
4607 final action on a land use application for any adversely affected third party, if the county
4608 conformed with the notice provisions of Part 2, Notice, or for any person who had actual notice
4609 of the pending decision.

4610 (5) If the county has complied with Section 10-9a-205, a challenge to the enactment of
4611 a land use ordinance or general plan may not be filed with the district court more than 30 days
4612 after the enactment.

4613 (6) The petition is barred unless it is filed within 30 days after the appeal authority's

4614 decision is final.

4615 (7) (a) The land use authority or appeal authority, as the case may be, shall transmit to
4616 the reviewing court the record of its proceedings, including its minutes, findings, orders and, if
4617 available, a true and correct transcript of its proceedings.

4618 (b) If the proceeding was tape recorded, a transcript of that tape recording is a true and
4619 correct transcript for purposes of this Subsection (7).

4620 (8) (a) (i) If there is a record, the district court's review is limited to the record provided
4621 by the land use authority or appeal authority, as the case may be.

4622 (ii) The court may not accept or consider any evidence outside the record of the land
4623 use authority or appeal authority, as the case may be, unless that evidence was offered to the
4624 land use authority or appeal authority, respectively, and the court determines that it was
4625 improperly excluded.

4626 (b) If there is no record, the court may call witnesses and take evidence.

4627 (9) (a) The filing of a petition does not stay the decision of the land use authority or
4628 appeal authority, as the case may be.

4629 (b) (i) Before filing a petition under this section or a request for mediation or
4630 arbitration of a constitutional taking issue under Section 63-34-13, the aggrieved party may
4631 petition the appeal authority to stay its decision.

4632 (ii) Upon receipt of a petition to stay, the appeal authority may order its decision stayed
4633 pending district court review if the appeal authority finds it to be in the best interest of the
4634 county.

4635 (iii) After a petition is filed under this section or a request for mediation or arbitration
4636 of a constitutional taking issue is filed under Section 63-34-13, the petitioner may seek an
4637 injunction staying the appeal authority's decision.

4638 Section 143. Section **17-27a-802**, which is renumbered from Section 17-27-1002 is
4639 renumbered and amended to read:

4640 ~~[17-27-1002].~~ **17-27a-802. Enforcement.**

4641 (1) (a) A county~~[, county attorney,]~~ or any adversely affected owner of real estate
4642 within the county in which violations of this chapter or ordinances enacted under the authority
4643 of this chapter occur or are about to occur may, in addition to other remedies provided by law,
4644 institute:

- 4645 (i) injunctions, mandamus, abatement, or any other appropriate actions; or
- 4646 (ii) proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.
- 4647 (b) A county need only establish the violation to obtain the injunction.
- 4648 (2) (a) The county may enforce the ordinance by withholding building permits.
- 4649 (b) It is unlawful to erect, construct, reconstruct, alter, or change the use of any
- 4650 building or other structure within a county without approval of a building permit.
- 4651 (c) The county may not issue a building permit unless the plans of and for the proposed
- 4652 erection, construction, reconstruction, alteration, or use fully conform to all regulations then in
- 4653 effect.

4654 Section 144. Section **17-27a-803**, which is renumbered from Section 17-27-1003 is

4655 renumbered and amended to read:

4656 ~~[17-27-1003]~~. **17-27a-803. Penalties.**

4657 (1) The county [~~legislative body~~] may, by ordinance, establish civil penalties for

4658 violations of any of the provisions of this chapter or of any ordinances adopted under the

4659 authority of this chapter.

4660 (2) Violation of any of the provisions of this chapter or of any ordinances adopted

4661 under the authority of this chapter [~~are~~] is punishable as a class C misdemeanor upon

4662 conviction either:

- 4663 (a) as a class C misdemeanor; or
- 4664 (b) by imposing the appropriate civil penalty adopted under the authority of this
- 4665 section.

4666 Section 145. Section **17-34-6** is amended to read:

4667 **17-34-6. State to indemnify county regarding refusal to site nuclear waste --**

4668 **Terms and conditions.**

4669 If a county is challenged in a court of law regarding its decision to deny siting of a

4670 storage or transfer facility for the placement of high-level nuclear waste or greater than class C

4671 radioactive waste or its refusal to provide municipal-type services regarding the operation of

4672 the storage or transfer facility, the state shall indemnify, defend, and hold the county harmless

4673 from any claims or damages, including court costs and attorney fees that are assessed as a result

4674 of the county's action, if:

- 4675 (1) the county has complied with the provisions of Subsection [~~17-27-301~~]

4676 17-27a-401(3)(b) by adopting an ordinance rejecting all proposals for the siting of a storage or
4677 transfer facility for the placement of high-level nuclear waste or greater than class C
4678 radioactive waste wholly or partially within the boundaries of the county;

4679 (2) the county has complied with Subsection 17-34-1(3) regarding refusal to provide
4680 municipal-type services; and

4681 (3) the court challenge against the county addresses the county's actions in compliance
4682 with Subsection [~~17-27-301~~] 17-27a-401(3)(b) or [~~Subsection~~] 17-34-1(3).

4683 Section 146. Section **17-50-302** is amended to read:

4684 **17-50-302. General county powers.**

4685 (1) A county may:

4686 (a) as prescribed by statute, levy, assess, and collect taxes, borrow money, and levy and
4687 collect special assessments for benefits conferred; and

4688 (b) provide services, exercise powers, and perform functions that are reasonably related
4689 to the safety, health, morals, and welfare of their inhabitants, except as limited or prohibited by
4690 statute.

4691 (2) (a) A county may:

4692 (i) sue and be sued;

4693 (ii) subject to Subsection (2)(c), acquire real property by tax sale, purchase, lease,
4694 contract, or gift, and hold the real property as necessary and proper for county purposes;

4695 (iii) (A) subject to Subsection (2)(b), acquire real property by condemnation, as
4696 provided in Title 78, Chapter 34, Eminent Domain; and

4697 (B) hold the real property as necessary and proper for county purposes;

4698 (iv) as may be necessary to the exercise of its powers, acquire personal property by
4699 purchase, lease, contract, or gift, and hold such personal property; and

4700 (v) manage and dispose of its property as the interests of its inhabitants may require.

4701 (b) (i) For purposes of Subsection (2)(a)(iii), water rights that are not appurtenant to
4702 land do not constitute real property that may be acquired by the county through condemnation.

4703 (ii) Nothing in Subsection (2)(a)(iii) may be construed to authorize a county to acquire
4704 by condemnation the rights to water unless the land to which those water rights are appurtenant
4705 is acquired by condemnation.

4706 (c) (i) Except as provided in Subsection (2)(c)(iv), each county intending to acquire

4707 real property for the purpose of expanding the county's infrastructure or other facilities used for
 4708 providing services that the county offers or intends to offer shall provide written notice, as
 4709 provided in this Subsection (2)(c), of its intent to acquire the property if:

4710 (A) the property is located:

4711 (I) outside the boundaries of the unincorporated area of the county; and

4712 (II) in a county of the first or second class; and

4713 (B) the intended use of the property is contrary to:

4714 (I) the anticipated use of the property under the general plan of the county in whose
 4715 unincorporated area or the municipality in whose boundaries the property is located; or

4716 (II) the property's current zoning designation.

4717 (ii) Each notice under Subsection (2)(c)(i) shall:

4718 (A) indicate that the county intends to acquire real property;

4719 (B) identify the real property; and

4720 (C) be sent to:

4721 (I) each county in whose unincorporated area and each municipality in whose
 4722 boundaries the property is located; and

4723 (II) each affected entity.

4724 (iii) A notice under this Subsection (2)(c) is a protected record as provided in
 4725 Subsection 63-2-304(7).

4726 (iv) (A) The notice requirement of Subsection (2)(c)(i) does not apply if the county
 4727 previously provided notice under Section [~~17-27-301.5~~] 17-27a-203 identifying the general
 4728 location within the municipality or unincorporated part of the county where the property to be
 4729 acquired is located.

4730 (B) If a county is not required to comply with the notice requirement of Subsection
 4731 (2)(c)(i) because of application of Subsection (2)(c)(iv)(A), the county shall provide the notice
 4732 specified in Subsection (2)(c)(i) as soon as practicable after its acquisition of the real property.

4733 Section 147. Section **17B-4-402** is amended to read:

4734 **17B-4-402. Process for adopting project area plan -- Prerequisites -- Restrictions.**

4735 (1) In order to adopt a project area plan, after adopting a resolution under Subsection
 4736 17B-4-401(1) the agency shall:

4737 (a) prepare a draft of a project area plan and conduct any examination, investigation,

4738 and negotiation regarding the project area plan that the agency considers appropriate;

4739 (b) request input on the draft project area plan from the planning commission of the

4740 community in which the proposed project area is located;

4741 (c) make the draft project area plan available to the public at the agency's offices during

4742 normal business hours;

4743 (d) provide notice of the plan hearing as provided in Sections 17B-4-702 and

4744 17B-4-704;

4745 (e) hold a public hearing on the draft project area plan and, at that public hearing:

4746 (i) allow public comment on:

4747 (A) the draft project area plan; and

4748 (B) whether the draft project area plan should be revised, approved, or rejected; and

4749 (ii) receive all written and hear all oral objections to the draft project area plan;

4750 (f) before holding the plan hearing, provide an opportunity for the State Board of

4751 Education and each taxing entity that levies a tax on property within the proposed project area

4752 to consult with the agency regarding the draft project area plan;

4753 (g) if applicable, hold the election required under Subsection 17B-4-406(3);

4754 (h) for a redevelopment project area plan:

4755 (i) comply with the requirements of Part 6, Blight Determination in Redevelopment

4756 Project Areas;

4757 (ii) before providing notice of the plan hearing, hold at least one public hearing to:

4758 (A) inform the public about each area being considered for a redevelopment project

4759 area; and

4760 (B) allow public input into agency deliberations on proposing each redevelopment

4761 project area;

4762 (iii) select one or more project areas comprising part or all of the survey area; and

4763 (iv) before sending the first notice to assessment owners of property for a public input

4764 hearing, blight hearing, or combined public input and blight hearing, prepare and adopt

4765 guidelines setting forth and governing the reasonable opportunities of record property owners

4766 and tenants to participate in the redevelopment;

4767 (i) after holding the plan hearing, at the same meeting or at a subsequent meeting

4768 consider:

- 4769 (i) the oral and written objections to the draft project area plan and evidence and
4770 testimony for or against adoption of the draft project area plan; and
- 4771 (ii) whether to revise, approve, or reject the draft project area plan;
- 4772 (j) approve the draft project area plan, with or without revisions, as the project area
4773 plan by a resolution that complies with Section 17B-4-407; and
- 4774 (k) submit the project area plan to the community legislative body for adoption.
- 4775 (2) An agency may not propose a project area plan under Subsection (1) unless the
4776 community in which the proposed project area is located:
- 4777 (a) has a planning commission; and
- 4778 (b) has adopted a general plan under:
- 4779 (i) if the community is a city or town, Title 10, Chapter [9] 9a, Part [3] 4, General Plan;
4780 or
- 4781 (ii) if the community is a county, Title 17, Chapter [27] 27a, Part [3] 4, General Plan.
- 4782 (3) (a) Subject to Subsection (3)(b), an agency board may not approve a project area
4783 plan more than one year after:
- 4784 (i) for a redevelopment project area plan involving the use of eminent domain,
4785 adoption of a resolution making a finding of blight under Subsection 17B-4-601(4)(b); or
- 4786 (ii) for an economic development or education housing development project area plan,
4787 the date of the plan hearing.
- 4788 (b) If a project area plan is submitted to an election under Subsection 17B-4-406(3),
4789 the time between the plan hearing and the date of the election does not count for purposes of
4790 calculating the year period under Subsection (3)(a).
- 4791 (4) (a) Except as provided in Subsection (4)(b), a draft project area plan may not be
4792 modified to add real property to the proposed project area unless the board holds a plan hearing
4793 to consider the addition and gives notice of the plan hearing as required under Sections
4794 17B-4-702 and 17B-4-704.
- 4795 (b) The notice and hearing requirements under Subsection (4)(a) do not apply to a draft
4796 project area plan being modified to add real property to the proposed project area if:
- 4797 (i) the property is contiguous to the property already included in the proposed project
4798 area under the draft project area plan;
- 4799 (ii) the record owner of the property consents to adding the real property to the

4800 proposed project area; and

4801 (iii) for a redevelopment project area, the property is located within the survey area.

4802 Section 148. Section **57-3-101** is amended to read:

4803 **57-3-101. Certificate of acknowledgment, proof of execution, jurat, or other**
4804 **certificate required -- Notarial acts affecting real property -- Right to record documents**
4805 **unaffected by subdivision ordinances.**

4806 (1) A certificate of the acknowledgment of any document, or of the proof of the
4807 execution of any document, or a jurat as defined in Section 46-1-2, or other notarial certificate
4808 containing the words "subscribed and sworn" or their substantial equivalent, that is signed and
4809 certified by the officer taking the acknowledgment, proof, or jurat, as provided in this title,
4810 entitles the document and the certificate to be recorded in the office of the recorder of the
4811 county where the real property is located.

4812 (2) Notarial acts affecting real property in this state shall also be performed in
4813 conformance with Title 46, Chapter 1, Notaries Public Reform Act.

4814 (3) Nothing in the provisions of Title 10, Chapter [9] 9a, Part [8] 6, Subdivisions, and
4815 Title 17, Chapter [27] 27a, Part [8] 6, Subdivisions, shall prohibit the recording of a document
4816 which is otherwise entitled to be recorded under the provisions of this chapter.

4817 Section 149. Section **57-8-35** is amended to read:

4818 **57-8-35. Effect of other laws -- Compliance with ordinances and codes --**
4819 **Approval of projects by municipality or county.**

4820 (1) The provisions of this chapter shall be in addition and supplemental to all other
4821 provisions of law, statutory or judicially declared, provided that wherever the application of the
4822 provisions of this chapter conflict with the application of such other provisions, this chapter
4823 shall prevail: provided further, for purposes of Sections [~~10-9-805, 10-9-811, and 17-27-804~~]
4824 10-9a-604, 10-9a-611, and 17-27a-603 and provisions of similar import and any law or
4825 ordinance adopted pursuant thereto, a condominium project shall be considered to be a
4826 subdivision, and a condominium plat or supplement thereto prepared pursuant to this chapter
4827 shall be considered to be a subdivision map or plat, only with respect to:

4828 (a) such real property or improvements, if any, as are intended to be dedicated to the
4829 use of the public in connection with the creation of the condominium project or portion thereof
4830 concerned; and

4831 (b) those units, if any, included in the condominium project or portion thereof
4832 concerned which are not contained in existing or proposed buildings.

4833 (2) Nothing in this chapter shall be interpreted to state or imply that a condominium
4834 project, unit, association or unit owners, or management committee is exempt by this chapter
4835 from compliance with the zoning ordinance, building and sanitary codes, and similar
4836 development regulations which have been adopted by a municipality or county. No
4837 condominium project or any use within said project or any unit or parcel or parcel of land
4838 indicated as a separate unit or any structure within said project shall be permitted which is not
4839 in compliance with said ordinances and codes.

4840 (3) From and after the time a municipality or county shall have established a planning
4841 commission, no condominium project or any condominium plat, declaration, or other material
4842 as required for recordation under this chapter shall be recorded in the office of the county
4843 recorder unless and until the following mentioned attributes of said condominium project shall
4844 have been approved by the municipality or county in which it is located. In order to more fully
4845 avail itself of this power, the legislative body of a municipality or county may provide by
4846 ordinance for the approval of condominium projects proposed within its limits. This ordinance
4847 may include and shall be limited to a procedure for approval of condominium projects, the
4848 standards and the criteria for the geographical layout of a condominium project, facilities for
4849 utility lines and roads which shall be constructed, the percentage of the project which must be
4850 devoted to common or recreational use, and the content of the declaration with respect to the
4851 standards which must be adhered to concerning maintenance, upkeep, and operation of any
4852 roads, utility facilities, recreational areas, and open spaces included in the project.

4853 (4) Any ordinance adopted by the legislative body of a municipality or county which
4854 outlines the procedures for approval of a condominium project shall provide for:

4855 (a) a preliminary approval, which, among other things, will then authorize the
4856 developer of the condominium project to proceed with the project; and

4857 (b) a final approval which will certify that all of the requirements set forth in the
4858 preliminary approval either have been accomplished or have been assured of accomplishment
4859 by bond or other appropriate means. No declaration or condominium plat shall be recorded in
4860 the office of the county recorder until a final approval has been granted.

4861 Section 150. Section **58-56-4** is amended to read:

4862 **58-56-4. Definitions -- Adoption of building codes -- Amendments -- Approval of**
4863 **other codes -- Exemptions.**

4864 (1) As used in this section:

4865 (a) "agricultural use" means a use that relates to the tilling of soil and raising of crops,
4866 or keeping or raising domestic animals;

4867 (b) "not for human occupancy" means use of a structure for purposes other than
4868 protection or comfort of human beings, but allows people to enter the structure for:

4869 (i) maintenance and repair; and

4870 (ii) the care of livestock, crops, or equipment intended for agricultural use which are
4871 kept there; and

4872 (c) "residential area" means land that is not used for an agricultural use and is:

4873 (i) (A) within the boundaries of a city or town; and

4874 (B) less than five contiguous acres;

4875 (ii) (A) within a subdivision for which the county has approved a subdivision plat
4876 under Title 17, Chapter ~~[27]~~ 27a, Part [8] 6, Subdivisions; and

4877 (B) less than two contiguous acres; or

4878 (iii) not located in whole or in part in an agricultural protection area created under Title
4879 17, Chapter 41, Agriculture Protection Area.

4880 (2) (a) Subject to the provisions of Subsections (4) and (5), the following codes, each
4881 of which must be promulgated by a nationally recognized code authority, shall be adopted, in
4882 the manner described in Subsection (2)(b), as the construction codes which the state and each
4883 political subdivision of the state shall follow in the circumstances described in Subsection (3):

4884 (i) a building code;

4885 (ii) the National Electrical Code promulgated by the National Fire Protection
4886 Association;

4887 (iii) a residential one and two family dwelling code;

4888 (iv) a plumbing code;

4889 (v) a mechanical code;

4890 (vi) a fuel gas code;

4891 (vii) an energy conservation code; and

4892 (viii) a manufactured housing installation standard code.

4893 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
4894 division, in collaboration with the commission, shall adopt by rule specific editions of the
4895 codes described in Subsection (2)(a), and may adopt by rule successor editions of any adopted
4896 code.

4897 (c) The division, in collaboration with the commission, may, in accordance with
4898 Section 58-56-7, adopt amendments to the codes adopted under Subsection (2)(a), to be
4899 applicable to the entire state or within one or more political subdivisions.

4900 (3) Subject to the provisions of Subsections (4) and (5), the codes and amendments
4901 adopted under Subsection (2) shall be followed when:

4902 (a) new construction is involved;

4903 (b) the owner of an existing building, or the owner's agent, is voluntarily engaged in:

4904 (i) the repair, renovation, remodeling, alteration, enlargement, rehabilitation,
4905 conservation, or reconstruction of the building; or

4906 (ii) changing the character or use of the building in a manner which increases the
4907 occupancy loads, other demands, or safety risks of the building.

4908 (4) (a) The division, in collaboration with the commission, has discretion to approve,
4909 without adopting, certain codes in addition to those described in Subsection (2)(a), including
4910 specific editions of the codes, for use by a compliance agency.

4911 (b) If the applicable code is one which the division has approved under Subsection
4912 (4)(a), a compliance agency has the discretion to:

4913 (i) adopt an ordinance requiring removal, demolition, or repair of a building, according
4914 to a code;

4915 (ii) adopt, by ordinance or rule, a dangerous building code; or

4916 (iii) adopt, by ordinance or rule, a building rehabilitation code.

4917 (5) (a) Except in a residential area, a structure used solely in conjunction with
4918 agriculture use, and not for human occupancy, is exempted from the permit requirements of
4919 any code adopted by the division.

4920 (b) Notwithstanding Subsection (5)(a), unless otherwise exempted, plumbing,
4921 electrical, and mechanical permits may be required when that work is included in the structure.

4922 Section 151. Section **59-2-301.2** is amended to read:

4923 **59-2-301.2. Definitions -- Assessment of property subject to a minimum parcel**

4924 size -- Other factors affecting fair market value.

4925 (1) "Minimum parcel size" means the minimum size that a parcel of property may be
4926 divided into under a zoning ordinance adopted by a:

4927 (a) county in accordance with Title 17, Chapter ~~[27]~~ 27a, Part ~~[4]~~ 5, [~~Zoning~~
4928 ~~Ordinance~~] Land Use Ordinances; or

4929 (b) city or town in accordance with Title 10, Chapter ~~[9]~~ 9a, Part ~~[4]~~ 5, [~~Zoning~~] Land
4930 Use Ordinances.

4931 (2) In assessing the fair market value of a parcel of property that is subject to a
4932 minimum parcel size of one acre or more, a county assessor shall include as part of the
4933 assessment:

4934 (a) that the parcel of property may not be subdivided into parcels of property smaller
4935 than the minimum parcel size; and

4936 (b) any effects Subsection (2)(a) may have on the fair market value of the parcel of
4937 property.

4938 (3) This section does not prohibit a county assessor from including as part of an
4939 assessment of the fair market value of a parcel of property any other factor affecting the fair
4940 market value of the parcel of property.

4941 Section 152. Section **59-2-502** is amended to read:

4942 **59-2-502. Definitions.**

4943 As used in this part:

4944 (1) "Actively devoted to agricultural use" means that the land in agricultural use
4945 produces in excess of 50% of the average agricultural production per acre:

4946 (a) as determined under Section 59-2-503; and

4947 (b) for:

4948 (i) the given type of land; and

4949 (ii) the given county or area.

4950 (2) "Conservation easement rollback tax" means the tax imposed under Section
4951 59-2-506.5.

4952 (3) "Identical legal ownership" means legal ownership held by:

4953 (a) identical legal parties; or

4954 (b) identical legal entities.

- 4955 (4) "Land in agricultural use" means:
- 4956 (a) land devoted to the raising of useful plants and animals with a reasonable
- 4957 expectation of profit, including:
- 4958 (i) forages and sod crops;
- 4959 (ii) grains and feed crops;
- 4960 (iii) livestock as defined in Section 59-2-102;
- 4961 (iv) trees and fruits; or
- 4962 (v) vegetables, nursery, floral, and ornamental stock; or
- 4963 (b) land devoted to and meeting the requirements and qualifications for payments or
- 4964 other compensation under a crop-land retirement program with an agency of the state or federal
- 4965 government.
- 4966 (5) "Other eligible acreage" means land that is:
- 4967 (a) five or more contiguous acres;
- 4968 (b) eligible for assessment under this part; and
- 4969 (c) (i) located in the same county as land described in Subsection 59-2-503(1)(a); or
- 4970 (ii) contiguous across county lines with land described in Subsection 59-2-503(1)(a) as
- 4971 provided in Section 59-2-512.
- 4972 (6) "Platted" means land in which:
- 4973 (a) parcels of ground are laid out and mapped by their boundaries, course, and extent;
- 4974 and
- 4975 (b) the plat has been approved as provided in Section [~~10-9-805 or 17-27-805~~
- 4976 10-9a-604 or 17-27a-604].
- 4977 (7) "Rollback tax" means the tax imposed under Section 59-2-506.
- 4978 (8) "Withdrawn from this part" means that land that has been assessed under this part is
- 4979 no longer assessed under this part or eligible for assessment under this part for any reason
- 4980 including that:
- 4981 (a) an owner voluntarily requests that the land be withdrawn from this part;
- 4982 (b) the land is no longer actively devoted to agricultural use;
- 4983 (c) (i) the land has a change in ownership; and
- 4984 (ii) (A) the new owner fails to apply for assessment under this part as required by
- 4985 Section 59-2-509; or

- 4986 (B) (I) an owner applies for assessment under this part as required by Section
4987 59-2-509; and
- 4988 (II) the land does not meet the requirements of this part to be assessed under this part;
- 4989 (d) (i) the legal description of the land changes; and
- 4990 (ii) (A) an owner fails to apply for assessment under this part as required by Section
4991 59-2-509; or
- 4992 (B) (I) an owner applies for assessment under this part as required by Section
4993 59-2-509; and
- 4994 (II) the land does not meet the requirements of this part to be assessed under this part;
- 4995 (e) if required by the county assessor, the owner of the land:
- 4996 (i) fails to file a new application as provided in Subsection 59-2-508(4); or
- 4997 (ii) fails to file a signed statement as provided in Subsection 59-2-508(4); or
- 4998 (f) except as provided in Section 59-2-503, the land fails to meet a requirement of
4999 Section 59-2-503.

5000 Section 153. Section **59-2-511** is amended to read:

5001 **59-2-511. Acquisition of land by governmental entity -- Requirements -- Rollback**
5002 **tax -- One-time in lieu fee payment -- Passage of title.**

- 5003 (1) For purposes of this section, "governmental entity" means:
- 5004 (a) the United States;
- 5005 (b) the state;
- 5006 (c) a political subdivision of the state, including:
- 5007 (i) a county;
- 5008 (ii) a city;
- 5009 (iii) a town;
- 5010 (iv) a school district; or
- 5011 (v) a special district; or
- 5012 (d) an entity created by the state or the United States, including:
- 5013 (i) an agency;
- 5014 (ii) a board;
- 5015 (iii) a bureau;
- 5016 (iv) a commission;

- 5017 (v) a committee;
- 5018 (vi) a department;
- 5019 (vii) a division;
- 5020 (viii) an institution;
- 5021 (ix) an instrumentality; or
- 5022 (x) an office.

5023 (2) (a) Except as provided in Subsections (3) and (4), land acquired by a governmental
5024 entity is subject to the rollback tax imposed by this part if:

5025 (i) prior to the governmental entity acquiring the land, the land is assessed under this
5026 part; and

5027 (ii) after the governmental entity acquires the land, the land does not meet the
5028 requirements of Section 59-2-503 for assessment under this part.

5029 (b) A person dedicating a public right-of-way to a governmental entity shall pay the
5030 rollback tax imposed by this part if:

5031 (i) a portion of the public right-of-way is located within a subdivision as defined in
5032 Section [~~10-9-103~~] 10-9a-103; or

5033 (ii) in exchange for the dedication, the person dedicating the public right-of-way
5034 receives:

- 5035 (A) money; or
- 5036 (B) other consideration.

5037 (3) (a) Except as provided in Subsection (4), land acquired by a governmental entity is
5038 not subject to the rollback tax imposed by this part, but is subject to a one-time in lieu fee
5039 payment as provided in Subsection (3)(b), if:

- 5040 (i) the governmental entity acquires the land by eminent domain;
- 5041 (ii) (A) the land is under the threat or imminence of eminent domain proceedings; and
- 5042 (B) the governmental entity provides written notice of the proceedings to the owner; or
- 5043 (iii) the land is donated to the governmental entity.

5044 (b) (i) If a governmental entity acquires land under Subsection (3)(a)(iii), the
5045 governmental entity shall make a one-time in lieu fee payment:

- 5046 (A) to the county treasurer of the county in which the land is located; and
- 5047 (B) in an amount equal to the amount of rollback tax calculated under Section

5048 59-2-506.

5049 (ii) If a governmental entity acquires land under Subsection (3)(a)(i) or (3)(a)(ii), the
5050 governmental entity shall make a one-time in lieu fee payment:

5051 (A) to the county treasurer of the county in which the land is located; and

5052 (B) (I) if the land remaining after the acquisition by the governmental entity meets the
5053 requirements of Section 59-2-503, in an amount equal to the rollback tax under Section
5054 59-2-506 on the land acquired by the governmental entity; or

5055 (II) if the land remaining after the acquisition by the governmental entity is less than
5056 five acres, in an amount equal to the rollback tax under Section 59-2-506 on the land acquired
5057 by the governmental entity and the land remaining after the acquisition by the governmental
5058 entity.

5059 (iii) For purposes of Subsection (3)(b)(ii), "land remaining after the acquisition by the
5060 governmental entity" includes other eligible acreage that is used in conjunction with the land
5061 remaining after the acquisition by the governmental entity.

5062 (c) A county receiving an in lieu fee payment under Subsection (3)(b) shall distribute
5063 the revenues generated by the payment:

5064 (i) to the taxing entities in which the land is located; and

5065 (ii) in the same proportion as the revenue from real property taxes is distributed.

5066 (4) Except as provided in Section 59-2-506.5, if land acquired by a governmental entity
5067 is made subject to a conservation easement in accordance with Section 59-2-506.5:

5068 (a) the land is not subject to the rollback tax imposed by this part; and

5069 (b) the governmental entity acquiring the land is not required to make an in lieu fee
5070 payment under Subsection (3)(b).

5071 (5) If a governmental entity acquires land subject to assessment under this part, title to
5072 the land may not pass to the governmental entity until the following are paid to the county
5073 treasurer:

5074 (a) any tax due under this part;

5075 (b) any one-time in lieu fee payment due under this part; and

5076 (c) any interest due under this part.

5077 Section 154. Section **62A-6-101** is amended to read:

5078 **62A-6-101. Definitions.**

5079 As used in this chapter:

5080 (1) "Informed consent" means consent that is voluntary and based on an understanding
5081 by the person to be sterilized of the nature and consequences of sterilization, the reasonably
5082 foreseeable risks and benefits of sterilization, and the available alternative methods of
5083 contraception.

5084 (2) "Institutionalized" means residing in the Utah State Developmental Center, the
5085 Utah State Hospital, a residential facility for persons with a disability as defined in Sections
5086 [~~10-9-605 and 17-27-605~~] 10-9a-103 and 17-27a-103, a group home for disabled persons, a
5087 nursing home, or a foster care home or facility.

5088 (3) "Sterilization" means any medical procedure, treatment, or operation rendering an
5089 individual permanently incapable of procreation.

5090 Section 155. Section **63A-5-206** is amended to read:

5091 **63A-5-206. Construction, alteration, and repair of state facilities -- Powers of**
5092 **director -- Exceptions -- Expenditure of appropriations -- Notification to local**
5093 **governments for construction or modification of certain facilities.**

5094 (1) As used in this section:

5095 (a) "Analysis" means an economic assessment of competing design and maintenance
5096 alternatives, the object of which is to reduce cost and conserve energy.

5097 (b) "Capital developments" and "capital improvements" have the same meaning as
5098 provided in Section 63A-5-104.

5099 (c) "Compliance agency" has the same meaning as provided in Subsection 58-56-3(4).

5100 (d) (i) "Facility" means any building, structure, or other improvement that is
5101 constructed on property owned by the state, its departments, commissions, institutions, or
5102 agencies.

5103 (ii) "Facility" does not mean an unoccupied structure that is a component of the state
5104 highway system.

5105 (e) "Life cycle cost-effective" means the lowest cost of owning and operating a facility
5106 over a 25-year period, including the initial cost, energy costs, operation and maintenance costs,
5107 repair costs, and the costs of energy conservation and renewable energy systems.

5108 (f) "Local government" means the county, municipality, or local school district that
5109 would have jurisdiction to act as the compliance agency if the property on which the project is

5110 being constructed were not owned by the state.

5111 (g) "Renewable energy system" means a system designed to use solar, wind,
5112 geothermal power, wood, or other replenishable energy source to heat, cool, or provide
5113 electricity to a building.

5114 (2) (a) Except as provided in Subsections (3) and (4), the director shall exercise direct
5115 supervision over the design and construction of all new facilities, and all alterations, repairs,
5116 and improvements to existing facilities if the total project construction cost, regardless of the
5117 funding source, is greater than \$100,000.

5118 (b) The director shall prepare or have prepared by private firms or individuals designs,
5119 plans, and specifications for the projects administered by the division.

5120 (c) Before proceeding with construction, the director and the officials charged with the
5121 administration of the affairs of the particular department, commission, institution, or agency
5122 shall approve the location, design, plans, and specifications.

5123 (3) Projects for the construction of new facilities and alterations, repairs, and
5124 improvements to existing facilities are not subject to Subsection (2) if the project:

5125 (a) occurs on property under the jurisdiction of the State Capitol Preservation Board;

5126 (b) is within a designated research park at the University of Utah or Utah State
5127 University;

5128 (c) occurs within the boundaries of This is the Place State Park and is administered by
5129 This is the Place Foundation except that This is the Place Foundation may request the director
5130 to administer the design and construction; or

5131 (d) is for the creation and installation of art under Title 9, Chapter 6, Part 4, Utah
5132 Percent-for-Art [Program] Act.

5133 (4) (a) (i) The State Building Board may authorize the delegation of control over
5134 design, construction, and all other aspects of any project to entities of state government on a
5135 project-by-project basis or for projects within a particular dollar range and a particular project
5136 type.

5137 (ii) The state entity to whom control is delegated shall assume fiduciary control over
5138 project finances, shall assume all responsibility for project budgets and expenditures, and shall
5139 receive all funds appropriated for the project, including any contingency funds contained in the
5140 appropriated project budget.

5141 (iii) Delegation of project control does not exempt the state entity from complying with
5142 the codes and guidelines for design and construction adopted by the division and the State
5143 Building Board.

5144 (iv) State entities that receive a delegated project may not access, for the delegated
5145 project, the division's statewide contingency reserve and project reserve authorized in Section
5146 63A-5-209.

5147 (b) For facilities that will be owned, operated, maintained, and repaired by an entity
5148 that is not a state agency or institution and that are located on state property, the State Building
5149 Board may authorize the owner to administer the design and construction of the project instead
5150 of the division.

5151 (5) Notwithstanding any other provision of this section, if a donor donates land to an
5152 eligible institution of higher education and commits to build a building or buildings on that
5153 land, and the institution agrees to provide funds for the operations and maintenance costs from
5154 sources other than state funds, and agrees that the building or buildings will not be eligible for
5155 state capital improvement funding, the higher education institution may:

5156 (a) oversee and manage the construction without involvement, oversight, or
5157 management from the division; or

5158 (b) arrange for management of the project by the division.

5159 (6) (a) The role of compliance agency as provided in Title 58, Chapter 56, Utah
5160 Uniform Building Standards Act, shall be provided by:

5161 (i) the director, for projects administered by the division;

5162 (ii) the entity designated by the State Capitol Preservation Board, for projects under
5163 Subsection (3)(a);

5164 (iii) the local government, for projects exempt from the division's administration under
5165 Subsection (3)(b) or administered by This is the Place Foundation under Subsection (3)(c);

5166 (iv) the state entity or local government designated by the State Building Board, for
5167 projects under Subsection (4); or

5168 (v) the institution, for projects exempt from the division's administration under
5169 Subsection (5)(a).

5170 (b) For the installation of art under Subsection (3)(d), the role of compliance agency
5171 shall be provided by the entity that is acting in this capacity for the balance of the project as

5172 provided in Subsection (6)(a).

5173 (c) The local government acting as the compliance agency under Subsection (6)(a)(iii)

5174 may:

5175 (i) only review plans and inspect construction to enforce the building codes as adopted

5176 by the Uniform Building Codes Commission; and

5177 (ii) charge a building permit fee of no more than the amount it could have charged if

5178 the land upon which the improvements are located were not owned by the state.

5179 (d) (i) The use of state property and any improvements constructed on state property,

5180 including improvements constructed by nonstate entities, is not subject to the zoning authority

5181 of local governments as provided in [~~Section 10-9-105~~] Sections 10-9a-304 and 17-27a-304.

5182 (ii) The state entity controlling the use of the state property shall consider any input

5183 received from the local government in determining how the property shall be used.

5184 (7) Before construction may begin, the director shall review the design of projects

5185 exempted from the division's administration under Subsection (4) to determine if the design:

5186 (a) complies with any restrictions placed on the project by the State Building Board;

5187 and

5188 (b) is appropriate for the purpose and setting of the project.

5189 (8) (a) The director shall ensure that state-owned facilities, except for facilities under
5190 the control of the State Capitol Preservation Board, are life cycle cost-effective.

5191 (b) The estimated cost of the analysis shall be included in each program budget

5192 document and in the project funding request submitted to the State Building Board, the

5193 governor, and the Legislature.

5194 (c) The final cost estimate shall reflect the most life cycle cost-effective building.

5195 (d) The State Building Board, in consultation with the director and the State Energy

5196 Manager, shall make rules to implement this Subsection (8) by following the procedures and

5197 requirements of Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

5198 (e) The State Building Board may exempt a facility from being life cycle cost-effective

5199 pursuant to rules, after reviewing and concurring with a written request and justification from

5200 the director.

5201 (9) The director may expend appropriations for statewide projects from funds provided

5202 by the Legislature for those specific purposes and within guidelines established by the State

5203 Building Board.

5204 (10) (a) The director, with the approval of the Office of Legislative Fiscal Analyst,
5205 shall develop standard forms to present capital development and capital improvement cost
5206 summary data.

5207 (b) The director shall:

5208 (i) within 30 days after the completion of each capital development project, submit cost
5209 summary data for the project on the standard form to the Office of Legislative Fiscal Analyst;
5210 and

5211 (ii) upon request, submit cost summary data for a capital improvement project to the
5212 Office of Legislative Fiscal Analyst on the standard form.

5213 (11) Notwithstanding the requirements of Title 63, Chapter 38, Budgetary Procedures
5214 Act, the director may:

5215 (a) accelerate the design of projects funded by any appropriation act passed by the
5216 Legislature in its annual general session;

5217 (b) use any unencumbered existing account balances to fund that design work; and

5218 (c) reimburse those account balances from the amount funded for those projects when
5219 the appropriation act funding the project becomes effective.

5220 (12) (a) The director, his designee, or the state entity to whom control has been
5221 designated under Subsection (4), shall notify in writing the elected representatives of local
5222 government entities directly and substantively affected by any diagnostic, treatment, parole,
5223 probation, or other secured facility project exceeding \$250,000, if:

5224 (i) the nature of the project has been significantly altered since prior notification;

5225 (ii) the project would significantly change the nature of the functions presently
5226 conducted at the location; or

5227 (iii) the project is new construction.

5228 (b) At the request of either the state entity or the local government entity,
5229 representatives from the state entity and the affected local entity shall conduct or participate in
5230 a local public hearing or hearings to discuss these issues.

5231 Section 156. Section **72-5-401** is amended to read:

5232 **72-5-401. Definitions.**

5233 As used in this part:

5234 (1) "Corridor" means the path or proposed path of a transportation facility that exists or
5235 that may exist in the future. A corridor may include the land occupied or to be occupied by a
5236 transportation facility, and any other land that may be needed for expanding a transportation
5237 facility or for controlling access to it.

5238 (2) "Corridor preservation" means planning or acquisition processes intended to:

5239 (a) protect or enhance the capacity of existing corridors; and

5240 (b) protect the availability of proposed corridors in advance of the need for and the
5241 actual commencement of the transportation facility construction.

5242 (3) "Development" means:

5243 (a) the subdividing of land;

5244 (b) the construction of improvements, expansions, or additions; or

5245 (c) any other action that will appreciably increase the value of and the future
5246 acquisition cost of land.

5247 (4) "Official map" means a map, drawn by government authorities and recorded in
5248 county recording offices that:

5249 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
5250 highways and other transportation facilities;

5251 (b) provides a basis for restricting development in designated rights-of-way or between
5252 designated setbacks to allow the government authorities time to purchase or otherwise reserve
5253 the land; and

5254 (c) for counties and municipalities may be adopted as an element of the general plan,
5255 pursuant to Title 17, Chapter [27] 27a, Part [3] 4, General Plan, or Title 10, Chapter [9] 9a, Part
5256 [3] 4, General Plan.

5257 (5) "Taking" means an act or regulation, either by exercise of eminent domain or other
5258 police power, whereby government puts private property to public use or restrains use of
5259 private property for public purposes, and that requires compensation to be paid to private
5260 property owners.

5261 Section 157. Section **72-7-502** is amended to read:

5262 **72-7-502. Definitions.**

5263 As used in this part:

5264 (1) "Commercial or industrial activities" means those activities generally recognized as

5265 commercial or industrial by zoning authorities in this state, except that none of the following
5266 are commercial or industrial activities:

5267 (a) agricultural, forestry, grazing, farming, and related activities, including wayside
5268 fresh produce stands;

5269 (b) transient or temporary activities;

5270 (c) activities not visible from the main-traveled way;

5271 (d) activities conducted in a building principally used as a residence; and

5272 (e) railroad tracks and minor sidings.

5273 (2) "Commercial or industrial zone" means only:

5274 (a) those areas within the boundaries of cities or towns that are used or reserved for
5275 business, commerce, or trade, or zoned as a highway service zone, under enabling state
5276 legislation or comprehensive local zoning ordinances or regulations;

5277 (b) those areas within the boundaries of urbanized counties that are used or reserved for
5278 business, commerce, or trade, or zoned as a highway service zone, under enabling state
5279 legislation or comprehensive local zoning ordinances or regulations;

5280 (c) those areas outside the boundaries of urbanized counties and outside the boundaries
5281 of cities and towns that:

5282 (i) are used or reserved for business, commerce, or trade, or zoned as a highway service
5283 zone, under comprehensive local zoning ordinances or regulations or enabling state legislation;
5284 and

5285 (ii) are within 8420 feet of an interstate highway exit, off-ramp, or turnoff as measured
5286 from the nearest point of the beginning or ending of the pavement widening at the exit from or
5287 entrance to the main-traveled way; or

5288 (d) those areas outside the boundaries of urbanized counties and outside the boundaries
5289 of cities and towns and not within 8420 feet of an interstate highway exit, off-ramp, or turnoff
5290 as measured from the nearest point of the beginning or ending of the pavement widening at the
5291 exit from or entrance to the main-traveled way that are reserved for business, commerce, or
5292 trade under enabling state legislation or comprehensive local zoning ordinances or regulations,
5293 and are actually used for commercial or industrial purposes.

5294 (3) "Commercial or industrial zone" does not mean areas zoned for the sole purpose of
5295 allowing outdoor advertising.

5296 (4) "Comprehensive local zoning ordinances or regulations" means a municipality's
5297 comprehensive plan required by Section [~~10-9-301~~] 10-9a-401, the municipal zoning plan
5298 authorized by Section [~~10-9-401~~] 10-9a-501, and the county master plan authorized by Sections
5299 [~~17-27-301~~] 17-27a-401 and [~~17-27-401~~] 17-27a-501. Property that is rezoned by
5300 comprehensive local zoning ordinances or regulations is rebuttably presumed to have not been
5301 zoned for the sole purpose of allowing outdoor advertising.

5302 (5) "Directional signs" means signs containing information about public places owned
5303 or operated by federal, state, or local governments or their agencies, publicly or privately
5304 owned natural phenomena, historic, cultural, scientific, educational, or religious sites, and areas
5305 of natural scenic beauty or naturally suited for outdoor recreation, that the department considers
5306 to be in the interest of the traveling public.

5307 (6) (a) "Erect" means to construct, build, raise, assemble, place, affix, attach, create,
5308 paint, draw, or in any other way bring into being.

5309 (b) "Erect" does not include any activities defined in Subsection (6)(a) if they are
5310 performed incident to the change of an advertising message or customary maintenance of a
5311 sign.

5312 (7) "Highway service zone" means a highway service area where the primary use of the
5313 land is used or reserved for commercial and roadside services other than outdoor advertising to
5314 serve the traveling public.

5315 (8) "Information center" means an area or site established and maintained at rest areas
5316 for the purpose of informing the public of:

5317 (a) places of interest within the state; or

5318 (b) any other information that the department considers desirable.

5319 (9) "Interchange or intersection" means those areas and their approaches where traffic
5320 is channeled off or onto an interstate route, excluding the deceleration lanes, acceleration lanes,
5321 or feeder systems, from or to another federal, state, county, city, or other route.

5322 (10) "Maintain" means to allow to exist, subject to the provisions of this chapter.

5323 (11) "Maintenance" means to repair, refurbish, repaint, or otherwise keep an existing
5324 sign structure safe and in a state suitable for use, including signs destroyed by vandalism or an
5325 act of God.

5326 (12) "Main-traveled way" means the through traffic lanes, including auxiliary lanes,

5327 acceleration lanes, deceleration lanes, and feeder systems, exclusive of frontage roads and
5328 ramps. For a divided highway, there is a separate main-traveled way for the traffic in each
5329 direction.

5330 (13) "Official signs and notices" means signs and notices erected and maintained by
5331 public agencies within their territorial or zoning jurisdictions for the purpose of carrying out
5332 official duties or responsibilities in accordance with direction or authorization contained in
5333 federal, state, or local law.

5334 (14) "Off-premise signs" means signs located in areas zoned industrial, commercial, or
5335 H-1 and in areas determined by the department to be unzoned industrial or commercial.

5336 (15) "On-premise signs" means signs used to advertise the major activities conducted
5337 on the property where the sign is located.

5338 (16) "Outdoor advertising" means any outdoor advertising structure or outdoor
5339 structure used in combination with an outdoor advertising sign or outdoor sign.

5340 (17) "Outdoor advertising corridor" means a strip of land 350 feet wide, measured
5341 perpendicular from the edge of a controlled highway right-of-way.

5342 (18) "Outdoor advertising structure" or "outdoor structure" means any sign structure,
5343 including any necessary devices, supports, appurtenances, and lighting that is part of or
5344 supports an outdoor sign.

5345 (19) "Point of widening" means the point of the gore or the point where the intersecting
5346 lane begins to parallel the other lanes of traffic, but the point of widening may never be greater
5347 than 2,640 feet from the center line of the intersecting highway of the interchange or
5348 intersection at grade.

5349 (20) "Public assembly facility" means a convention facility as defined under Section
5350 59-12-602 and that:

5351 (a) is wholly or partially funded by public moneys; and

5352 (b) requires a person attending an event at the public assembly facility to purchase a
5353 ticket or that otherwise charges for the use of the public assembly facility as part of its regular
5354 operation.

5355 (21) "Relocation" includes the removal of a sign from one situs together with the
5356 erection of a new sign upon another situs in a commercial or industrial zoned area as a
5357 substitute.

5358 (22) "Relocation and replacement" means allowing all outdoor advertising signs or
5359 permits the right to maintain outdoor advertising along the interstate, federal aid primary
5360 highway existing as of June 1, 1991, and national highway system highways to be maintained
5361 in a commercial or industrial zoned area to accommodate the displacement, remodeling, or
5362 widening of the highway systems.

5363 (23) "Remodel" means the upgrading, changing, alteration, refurbishment,
5364 modification, or complete substitution of a new outdoor advertising structure for one permitted
5365 pursuant to this part and that is located in a commercial or industrial area.

5366 (24) "Rest area" means an area or site established and maintained within or adjacent to
5367 the right-of-way by or under public supervision or control for the convenience of the traveling
5368 public.

5369 (25) "Scenic or natural area" means an area determined by the department to have
5370 aesthetic value.

5371 (26) "Traveled way" means that portion of the roadway used for the movement of
5372 vehicles, exclusive of shoulders and auxiliary lanes.

5373 (27) (a) "Unzoned commercial or industrial area" means:

5374 (i) those areas not zoned by state law or local law, regulation, or ordinance that are
5375 occupied by one or more industrial or commercial activities other than outdoor advertising
5376 signs;

5377 (ii) the lands along the highway for a distance of 600 feet immediately adjacent to
5378 those activities; and

5379 (iii) lands covering the same dimensions that are directly opposite those activities on
5380 the other side of the highway, if the department determines that those lands on the opposite side
5381 of the highway do not have scenic or aesthetic value.

5382 (b) In measuring the scope of the unzoned commercial or industrial area, all
5383 measurements shall be made from the outer edge of the regularly used buildings, parking lots,
5384 storage, or processing areas of the activities and shall be along or parallel to the edge of
5385 pavement of the highway.

5386 (c) All signs located within an unzoned commercial or industrial area become
5387 nonconforming if the commercial or industrial activity used in defining the area ceases for a
5388 continuous period of 12 months.

- 5389 (28) "Urbanized county" means a county with a population of at least 125,000 persons.
- 5390 Section 158. **Repealer.**
- 5391 This bill repeals:
- 5392 Section **10-8-8.1, Request for action to vacate, narrow, or change name of street or**
- 5393 **alley -- Hearing -- Ordinance.**
- 5394 Section **10-8-8.2, Action to vacate, narrow, or change name of alley or street**
- 5395 **without request from lot owner -- Ordinance.**
- 5396 Section **10-8-8.3, Notice required -- Exception.**
- 5397 Section **10-8-8.4, Notice -- How given.**
- 5398 Section **10-9-103.5, Notice to nearby entities.**
- 5399 Section **10-9-202, Organization and procedures.**
- 5400 Section **10-9-304, Amendment of plan.**
- 5401 Section **10-9-701, Board of adjustment -- Appointment -- Term -- Vacancy.**
- 5402 Section **10-9-702, Organization -- Procedures.**
- 5403 Section **10-9-703, Powers and duties.**
- 5404 Section **10-9-704, Appeals.**
- 5405 Section **10-9-705, Routine and uncontested matters.**
- 5406 Section **10-9-706, Special exceptions.**
- 5407 Section **10-9-708, District court review of board of adjustment decision.**
- 5408 Section **10-9-803, Amendments to subdivision ordinance.**
- 5409 Section **10-9-809, Notice of hearing for plat change.**
- 5410 Section **17-27-103.5, Notice to nearby entities.**
- 5411 Section **17-27-202, Organization and procedures.**
- 5412 Section **17-27-304, Amendment of plan.**
- 5413 Section **17-27-701, Board of adjustment -- Appointment -- Term -- Vacancy.**
- 5414 Section **17-27-702, Organization -- Procedures.**
- 5415 Section **17-27-703, Powers and duties.**
- 5416 Section **17-27-704, Appeals.**
- 5417 Section **17-27-705, Routine and uncontested matters.**
- 5418 Section **17-27-706, Special exceptions.**
- 5419 Section **17-27-708, District court review of board of adjustment decision.**

5420 Section **17-27-803, Amendments to subdivision ordinance.**

5421 Section **17-27-809, Notice of hearing for plat change.**

5422 Section 159. **Coordinating SB. 60 with S.B. 114.**

5423 If this S.B. 60 and S.B. 114, County and Municipal Zoning Regarding Billboards, both
5424 pass, it is the intent of the Legislature that the Office of Legislative Research and General
5425 Counsel, in preparing the database for publication:

5426 (1) modify Subsection 10-9a-513(3), as enacted in this bill, to read:

5427 "(3) A municipality may not allow a nonconforming billboard to be rebuilt or replaced
5428 by anyone other than its owner or the owner acting through its contractors.";

5429 (2) renumber Subsection 10-9-408(6), as set forth in S.B. 114, as Subsection
5430 10-9a-513(4);

5431 (3) modify Subsection 17-27-512(3), as enacted in this bill, to read:

5432 "(3) A county may not allow a nonconforming billboard to be rebuilt or replaced by
5433 anyone other than its owner or the owner acting through its contractors."; and

5434 (4) renumber Subsection 10-9-408(6), as set forth in S.B. 114, as Subsection
5435 17-27a-512(4).

5436 Section 160. **Coordinating SB. 60 with H.B. 109.**

5437 If this S.B. 60 and H.B. 109, Information Technology Governance Amendments, both
5438 pass, it is the intent of the Legislature that the Office of Legislative Research and General
5439 Counsel, in preparing the database for publication, change the reference in Subsections
5440 10-9a-203(1)(b) and 17-27a-203(1)(b), as set forth in this bill, from Section 63A-6-202 to
5441 Section 63F-1-506.